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“A System of Maltreatment”: Marital Cruelty in Victorian Glasgow

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Thesis submitted for the degree of Doctor of Philosophy

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Abstract

In Victorian Glasgow, marital cruelty was understood by both the civil legal system and broader society to include emotional, psychological, verbal, economic, *and* physical abuses. In contrast to existing historiography, this thesis rests on the quantitative analysis of records of divorce and separation from the Scottish Court of Session, and newspaper reports of inferior criminal court cases of marital assault. Three databases were designed to manage the plethora of information contained in these records. As the Scottish history of marital breakdown differs significantly from that in England and Wales, by focusing on the Greater Glasgow region, this thesis both benefits from access to a new body of sources to explore marital cruelty and balances the geographical spread of British histories of marital cruelty. Couples from across the class spectrum have been studied together in this research. As such, this thesis has been able to interrogate the variable of class thoroughly. Furthermore, the combination of using Scottish sources and a digital humanities methodology has enabled unprecedented consideration to be paid to non-physical unreasonable behaviours in marriage. Finally, this thesis incorporates the lengthy temporal scope of the Victorian period, a time of significant change in terms of the rights of women in Britain. To explore these themes, this thesis begins by exploring the long-term solutions offered by Scotland's Court of Session – divorce and separation. It subsequently moves chronologically through the trajectory of a cruel marriage. First, there is a thorough investigation of the cruel behaviours reported in civil and criminal legal settings and what a cruel marriage looked like in its totality is considered. From there, it addresses the coping mechanisms sought and deployed by victims of marital cruelty to help them manage the cruelty they faced and prolong the marriage.

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Finally, this thesis is in essence a collection of stories of men and women whose experiences of marriage – a relationship that today we expect to make us feel safe, loved, and empowered – involved unbearable cruelty. These stories have been emotionally demanding to reproduce, and they will be emotionally demanding to read, but they were infinitely more traumatic for those who lived through them. It is to survivors of domestic abuse, past and present, that this thesis is dedicated.

Whitburn, January 2021

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Abbreviations

CoS – Court of Session

CCDB – Criminal Court Database

DivDB – Divorce Database

NRS – National Records of Scotland, Edinburgh

SepDB – Separations Database

Glossary

Aliment (*Scots Law*) – maintenance, alimony

Arrestment (*Scots Law*) – an attachment of property for the satisfaction of a debt

Assoilzie (*Scots Law*) – to absolve or acquit

Consistorial (*Scots Law*) – relating to family matters

Interlocutor (*Scots Law*) – an order or decision of a Scottish court

Jawbox (*Scots*) – a kitchen sink in a tenement

Lord Ordinary (*Scots Law*) – the title of a judge in the outer house of the Court of Session

Poining (*Scots Law*) – the process by which a debtor's property is carried directly to a creditor

Portioner (*Scots*) – the proprietor of a small estate

Press (*Scots*) – a large freestanding cupboard

Printfield (*Scots*) – a cotton printing works

Chapter 1 Introduction

In April 2019, the Domestic Abuse (Scotland) Act 2018 came into force. Whereas previously incidents of domestic abuse were prosecuted under the same laws governing the abuse of any other person, this new legislation specifically criminalised abusive behaviour perpetrated towards a partner or ex-partner.¹ An incredibly broad definition of abusive behaviour was employed by the act. In short, any behaviour that physically or psychologically harmed a victim could be prosecuted.² Furthermore, the offence was aggravated if the perpetrator directed abusive behaviour towards a child, or if they used a child to direct abusive behaviour towards the victim. The state's exclusive focus on physical abuse was broken, and all unreasonable behaviour in marriage became forbidden by law.³

As survivors of domestic abuse and their advocates routinely explain, the perpetration of non-physical abuse against partners is not a new form of abuse. What is today understood as coercive control was referred to as 'refined cruelty' in the nineteenth century. And it is within the context of Victorian Glasgow that this thesis will grapple with the subject of unreasonable marital behaviour. There were changes to men and women's lives at this time – new expectations regarding appropriate gender roles, uses of violence, and displays of patriarchal power – that continue to affect the way marital behaviours are understood today. From the couples themselves, through family, kin and neighbours, to policemen, police court magistrates, Sheriffs, doctors, and Lord Ordinaries, this thesis will show how unreasonable behaviour was conceptualised by different members of society. Couples' civil and criminal legal arguments, the testimony of their witnesses, and Lord Ordinaries' decisions will help to convey the variety of respective attitudes. Witnesses and judges came, on occasion, from different class backgrounds to the couples. What is more, judges would have had very different relationships with the couples compared to their witnesses, who could range from being family

¹ *Domestic Abuse (Scotland) Act 2018*, s 1 <<http://www.legislation.gov.uk/asp/2018/5/enacted/data.pdf>> (2 July 2020).

² Subsections 2-4 dictate that behaviours that were violent, sexually violent, threatening, or intimidating constituted abusive behaviour under the Domestic Abuse (Scotland) Act 2018. Further, subsections 2-4 stated that behaviours that had the following effects also constituted abusive behaviour: caused distress; made a victim dependent or subordinate to their partner; isolated a victim from their friends, relatives or sources of support; deprived or restricted a victim's freedom of action; frightened, humiliated, degraded, or punished a victim.

³ In 2015, section 76 of the Serious Crimes Act criminalised coercive control in England and Wales, though the provisions were weak and a new bill that will focus specifically on domestic abuse (as the Scottish act does) is currently making its way through parliament.
<https://publications.parliament.uk/pa/jt201719/jtselect/jtddab/2075/2075.pdf>

members, neighbours or employees, to policemen or doctors. By exploring the stories of marital cruelty contained in the civil court records of marital breakdown and the newspaper reports of criminal court proceedings involving domestic abuse, this thesis will garner a wide range of views on unreasonable marital behaviour in Victorian Glasgow.

Like the definition employed by the 2018 Domestic Abuse (Scotland) Act, the unreasonable marital behaviours this thesis is concerned with are deliberately more inclusive than those found in existing scholarship. Importantly, behaviours that resulted in the death of a spouse will not be considered in this thesis. Homicide terminated the relationship completely. Instead, this study will focus on the unreasonable behaviours that were executed with the intention of shaping the victim-spouse's future actions. Notably, the overwhelming majority of behaviours considered in this thesis were not criminal actions. While physical marital cruelty will be a feature of this history, the focus will be shared with non-physical acts and so serious attention will also be given to psychological, emotional, verbal, sexual, and economic abuse. Recognising that marital cruelty usually involved a sustained course of behaviour rather than a succession of discrete acts will better reflect the lived experiences of the victims in this thesis. In 1840, Robina Currie's lawyers described the pattern of abuse she had suffered as a "system of maltreatment". Although physical abuse featured throughout the 36 incidents that Robina reported, it was used exclusively in just one of those incidents. The remaining 35 incidents were overwhelmingly characterised by controlling or degrading forms of emotional abuse, such as when her husband refused to allow her to take communion or ordered that she was only served food of inferior quality.⁴

The thesis will take an innovative look at the whole area of unreasonable marital behaviour. It will include, but move well beyond, the traditional focus on physical violence to look at the entire 'system of maltreatment' often in evidence. The focus on Victorian Glasgow will complement the existing England-focused literature and the resulting archival materials enable a cross-class approach. Thus, this thesis will necessarily draw on, and contribute to, several fields of existing historical research. As the work of Ben Griffin and A. J. Hammerton has shown, marital violence was only one aspect of a much larger public debate on the position of women in mid-Victorian society.⁵ Furthermore, understanding the beliefs regarding unreasonable marital behaviour in Scotland will contribute greatly to our knowledge of the

⁴ National Records of Scotland, Edinburgh (hereafter, NRS), CS228/C/27/9, Summons.

⁵ Ben Griffin, *The Politics of Gender in Victorian Britain: Masculinity, Political Culture and the Struggle for Women's Rights* (Cambridge, 2012); A. James Hammerton, *Cruelty and Companionship: Conflict in Nineteenth-Century Married Life* (London, 1995), 6.

changing ideals of masculinity and femininity, the role of women in society, and the expectations of the purpose of marriage in Victorian Glasgow. Simultaneously, this thesis will conduct a comparative analysis of experiences of marital cruelty across the class spectrum. Thus, this study will straddle the border between gender and social history. It will also make contributions to Scottish historiography. While the history of unreasonable marital behaviour is not necessarily a criminal justice history – because, despite the plethora of violent activities, most incidents passed without police involvement, and of course many of the behaviours involved were not yet criminal acts – this thesis will take an interest in the criminal justice system, and in the opinions held by magistrates and policemen regarding unreasonable marital behaviour. Finally, this thesis will also be a family history: children, parents and siblings – as witnesses, protectors, and pawns – were inextricably bound up in these stories of unreasonable marital behaviour. As Elizabeth Foyster has argued, marriages were the foundations of new family units and discussion of marital violence cannot be isolated from the wider family unit.⁶ The rest of this chapter will define the terminology used and provide a review of relevant literatures so as to situate the work and highlight its originality. This will be followed by a detailed discussion of sources and methods, and a brief outline of the structure of the thesis.

1.1 Definitions

There are countless ways of describing the behaviours studied in this thesis, and each carry their own connotations. In 2020, the common parlance is ‘domestic abuse’. This phrase would be foreign to the subjects of this thesis, however, and to a certain extent it may be interpreted to imply a spatial limitation to the behaviours that does not match up to the lived experiences of victims, then or now. A more historically appropriate term for some of these behaviours would be ‘wife-beating’. However, this thesis takes a gender-neutral approach and so this term would also be inappropriate. The nineteenth-century legal term for these behaviours in marriage was ‘cruelty’. Scots law defined cruelty as physical violence or threats thereof that would cause injury to “life, limb or health”.⁷ Legal writer and Sheriff, A. J. G. Mackay also identified a more ambiguous form of cruelty, referred to as ‘refined cruelty’, which was “harsh treatment short of injury to the person”.⁸ The adjective ‘abusive’ also featured in nineteenth-century reports of marital behaviour, both in newspapers and civil court cases. In terms of a

⁶ Elizabeth Foyster, *Marital Violence: An English Family History, 1660-1857* (Cambridge, 2005), 129–67.

⁷ A. J. G. Mackay, *Manual of Practice in the Court of Session* (Edinburgh, 1893), 492.

⁸ Ibid.

legal definition, the context in which it was used suggests that ‘abusive’ was understood to be interchangeable with ‘cruelty’.

Despite the prevalence of these existing legal terms, the behaviours complained of in this thesis are understood under the umbrella term ‘unreasonable behaviour’. Although the adjectives ‘cruel’ and ‘abusive’ accurately describe many of the behaviours complained of by nineteenth-century husbands and wives, they fail to encompass the broad nature of behaviours in their totality. The term ‘unreasonable’ is more in tune with the feelings of the complainers. More than five hundred marriages are studied in this thesis. As the proceeding chapters will show – in particular Chapter Seven – certain behaviours appeared across the majority of cases, but many more behaviours were almost unique to certain couples. ‘Unreasonable’ does not denote adherence to a strict legal binary between right and wrong, or good and bad behaviour. Instead, it signals the more personal and intimate nature of these complaints. When a behaviour was complained of, it was because the victim *felt* that it transgressed the boundaries of their own reasonable expectations, and was something that they were no longer willing to continue experiencing in their marriage. Where that line was drawn was rarely the same for two victims.

The term ‘unreasonable’ is not one that the civil or criminal courts studied in this thesis would have recognised. Nonetheless, many of the behaviours that victims complained of were not prohibited by these legal bodies. Physical abuse was only illegal if it threatened “life, limb or health”.⁹ Marital rape only became a criminal offence in the late twentieth century, and it was only during the production of this thesis that coercive control was criminalised. Nevertheless, many other, more minor, behaviour types that were not inherently illegal in their own right were brought before the court. Mary Donald, for example, complained that James Strang had habits that were “abominably filthy”. After returning from “houses of bad fame...sometimes after he had been in bed at his own house the bedclothes had to be removed, and the bed cleaned before being again fit for use”.¹⁰ Similarly, when John McCaffrey complained that his wife Sarah Lynagh took too long to return to housework after childbirth, he was not alleging that she was guilty of abuse or cruelty.¹¹ Describing these behaviours as ‘unreasonable’ is more appropriate than defining them as ‘cruelty’ or ‘abuse’. Mary and John were signalling that their spouses’ behaviour did not meet their expectation of reasonable Victorian marital relations. Although these behaviours were more subtle than ‘cruelty’ or ‘abuse’, and may seem less significant, they were still reported alongside more immediately

⁹ Ibid.

¹⁰ NRS, CS243/1763, Summons.

¹¹ NRS, CS243/5192, Defences.

recognisable wrongs. Thus, ‘unreasonable behaviour’ comprehensively encompasses the range of behaviours reported by those who no longer considered their marriage tenable and is the term employed in this thesis.

A final aspect of terminology that requires further clarification is the thesis’ title: ‘a system of maltreatment’. The phrase was used by lawyers in the 1840 separation case of Robina Currie *ag.* William Cunninghame. It was their assertion that, collectively, the cruelties that Robina had endured constituted ‘a system of maltreatment’. In today’s less ornate terminology, a lawyer might describe the same experiences as a controlling pattern of behaviour. Today, because of the recent criminalisation of ‘coercive control’, the concept of ‘control’ is widely understood as a pattern of acts that harm, punish, or frighten victims. While Victorian victims complained of behaviours that today would be recognised as ‘controlling’, they did not explicitly complain of being controlled. When the issue of ‘control’ was raised by nineteenth-century spouses, it was more likely to be husbands complaining they could not control their wives rather than wives complaining they were being controlled by their husbands. Thus, while the concept of control is an appropriate way to understand victims’ systematic experiences of unreasonable behaviour, it is necessary to remember it was not a term the victims themselves would have used. By systematically amalgamating and contextualising successive incidents of unreasonable behaviour over the course of marriages, one of the central aims of this thesis is to demonstrate how this behaviour was not experienced and understood as a one-off event by Victorians, but recognised as part of an on-going, sustained pattern of systematic, controlling behaviour, just as it is today.

1.2 Literature Review

Victorian marital ideals and expectations, as well as the extent to which such ideals and expectations could be adhered to by couples, provide an essential context for understanding what behaviours were considered ‘unreasonable’ in marriage and will be addressed first. Historians’ interpretations of legal and informal methods of ending marriage will then be explored before addressing the incidents that led to marital breakdown. First, scholarly studies of physical marital violence, the most widely studied form of unreasonable marital behaviour, will be addressed. Second, the less-examined wrongful behaviours – verbal, emotional, psychological, economic, and sexual abuse, and adultery – will be addressed.

1.2.1 Marital Ideals and Realities

Marriages convened and experienced in the Victorian period have often been presumed in the literature to be distinct from those that came before, because of the emphasis on separate spheres and the growth of notions of companionate marriage.¹² This trajectory has been questioned by historians who challenge the uniqueness of separate spheres to the Victorian period and the extent to which couples were able to conform to such a strict structure.¹³ By the Edwardian period the social and legal landscape in which marriage was set had shifted again. Historians have shown that domestic ideology no longer accorded such importance to the belief that the husband and wife were legally one person, evident in the changes to the law regarding married women's property.¹⁴ Despite the restrictions marriage put on a woman's life, it was the path most Victorians took. So before grappling with marital breakdown and unreasonable behaviour in marriage, first we must ascertain what men and women expected from a marriage, how far these expectations were realised, and how far the system was legally changed.

The most significant changes that arguably make this period distinct from what came before concern the reasons for the formation of a marriage and the organisation of the couples' life after marriage. Romance and personal compatibility, rather than social and economic gain, became the appropriate foundations for a *companionate* marriage. Lawrence Stone postulated that companionate marriage became more popular from the second half of the eighteenth century and was, "well established among the lower middle classes" by the early nineteenth century.¹⁵ Once married, husbands and wives occupied 'separate spheres' in order to prevent conflict in their roles. Breadwinning was the husband's role. Based in the public sphere of politics, commerce, and business, he was supposed to command a sufficient wage to provide for his family. Rather than in paid work, wives were kept busy in the private sphere of the home. As wives were inherently moral figures, protected from the depraved public sphere, childrearing was their domain. Through the vigilant management of servants, or endless hours of housework, wives made the domestic environment an enriching, hospitable refuge from the

¹² Lawrence Stone, *The Family, Sex and Marriage in England 1500-1800* (New York, NY, 1977), 363.

¹³ See for example: Amanda Vickery, "Golden Age to Separate Spheres? A Review of the Categories and Chronology of English Women's History," *The Historical Journal* 36, no. 02 (1993): 383-414; Anna Clark, *The Struggle for the Breeches: Gender and the Making of the British Working Class*, 1. paperback print, Studies on the History of Society and Culture 23 (Berkeley, 1997).

¹⁴ Griffin, *Politics of Gender in Victorian Britain*, 318.

¹⁵ Stone, *The Family, Sex and Marriage in England 1500-1800*, 245, 656.

public world. With complementary roles as money- and homemakers, this style of organisation was supposed to enable couples to live in domestic harmony.¹⁶

Unsurprisingly, historians have commented on the effect of such changes on the control held by the system of patriarchy: the unequal power balance that enables the systematic oppression of women. Companionate marriage, Stone argued in his London-centric history of marriage and family life, socially undermined patriarchy in the eighteenth century. Legally the system was not affected though, so a “reassertion of patriarchal authority in the nineteenth century”, furthered by the spread of Evangelicalism, was possible.¹⁷ Feminist scholars have contested Stone’s theory that patriarchy was ever hampered by the growth of companionate marriage. Sally Alexander and Barbara Taylor recognised that “in learning to love men [women] learn also to subordinate [themselves] to them” – challenging the idea that love created equality of the sexes.¹⁸ The veracity of Alexander and Taylor’s work was bolstered by Ingrid Hague’s identification of an explicit tone of obedience in letters from wives to their husbands. Such obedience signalled that love was associated with submission: companionate marriage mutated, but did not diminish, the system of patriarchy.¹⁹ In a similar vein, A. J. Hammerton has argued that “patriarchal and companionate marriage were never stark opposites”.²⁰ Having researched English marital violence among the working and middle classes in the nineteenth century Hammerton explained that only *excessive* male abuses were curtailed. While companionate marriage prospered, women remained inferior to men.²¹ Similarly, for Katie Barclay in her thorough study of Scottish marriage in the long eighteenth century, “patriarchy [was] a lived system”.²² The subordination of women continued because the framework was continuously renegotiated to reconcile new ideas (such as companionate marriage) with patriarchal values.²³ Patriarchal authority was clearly more nuanced by the Victorian period. The simplistic equation of men as heads of households as Kings were heads

¹⁶ Eleanor Gordon and Gwyneth Nair, *Public Lives: Women, Family and Society in Victorian Britain* (New Haven, Conn., 2003), 1–2.

¹⁷ Stone, *The Family, Sex and Marriage in England 1500-1800*, 265–66, 667.

¹⁸ Sally Alexander and Barbara Taylor, “In Defence of ‘Patriarchy,’” in *People’s History and Socialist Theory*, by Raphael Samuel (London, 1981), 372.

¹⁹ Ingrid Hague, “Love, Honour and Obedience: Fashionable Women and the Discourse of Marriage in the Early Eighteenth Century,” *Journal of British Studies* 40 (2001): 94–95.

²⁰ Hammerton, *Cruelty and Companionship*, 2.

²¹ *Ibid.*, 169.

²² Katie Barclay, *Love, Intimacy and Power: Marriage and Patriarchy in Scotland, 1650 - 1850*, Gender in History (Manchester, 2014), 204.

²³ *Ibid.*

of nations, identified in the early modern period by Stone, was replaced with a less conspicuous, but omnipresent system.²⁴

The extent to which the introduction of separate spheres actually altered the lived experience of married life has been keenly debated by historians. In particular, the originality of the concept of separate spheres in the Victorian period has been questioned. Amanda Vickery, for example, has claimed “this rough division could be applied to almost any century of any culture”.²⁵ Furthermore, Robert Shoemaker argued that the English public sphere did not become “a woman-free zone” between 1650 and 1850, nor did the home become “a male-free zone”.²⁶ Although Shoemaker did concede that the ideology of separate spheres had focused women’s public activities into certain areas, sanctioned by the contemporary feminine ideals of charity, temperance, and peaceful activism, ultimately he argued that “there are far more continuities in gender roles over this long period than most historians suggest”.²⁷ Anne Summers complements this argument in her case study of three middle-class English women’s lives, which challenged the binary nature of separate spheres. She proposed the existence of an additional ‘civic sphere’, where men and women were engaged in “the growth of public civility and intellectual exchange”.²⁸

Additionally, separate spheres ideology has been shown to be an unattainable ideal for certain groups. Anna Clark’s study of working-class culture through the lens of gender has shown how the ideals of the male breadwinner and female homemaker were unachievable for the majority of her subjects.²⁹ Similarly, Eleanor Gordon’s early study of Scottish women’s paid work argues convincingly that “it was only for a section of the middle classes that the Victorian ideology of domesticity and ‘angel in the house’ dovetailed with actual experience”.³⁰ Along with Gwyneth Nair, Gordon advanced this research in a study of two suburban, middle-class Glasgow estates. Their work contested conventional assumptions of household incomes and proved that middle-class households benefited from the economic

²⁴ Stone, *The Family, Sex and Marriage in England 1500-1800*, 245; Barclay, *Love, Intimacy and Power*, 204.

²⁵ Vickery, “Golden Age to Separate Spheres?,” 413.

²⁶ Robert Shoemaker, *Gender in English Society, 1650 - 1850: The Emergence of Separate Spheres?*, Themes in British Social History (London, 1998), 306–7.

²⁷ *Ibid.*, 10, 307.

²⁸ Anne Summers, *Female Lives, Moral States: Women, Religion and Public Life in Britain*, 2000, 7.

²⁹ Clark, *The Struggle for the Breeches*, 264–65.

³⁰ Eleanor Gordon, “Women’s Spheres,” in *People and Society in Scotland II: 1830-1914*, by W. Hamish Fraser and R. J. Morris, vol. II (Edinburgh, 1990), 216.

contributions of women in paid work as, inter alia, landladies, retailers, and teachers – information that was not ordinarily accurately recorded by contemporary census enumerators.³¹

Some historians, however, have argued that the significance of the doctrine of separate spheres lay more in the aspirations it inculcated than in any presumed shaping of daily life. For Hammerton, the existence of prescriptive literature – such as Sarah Ellis’ *Wives of England* (1843) – whilst not evidence of success, shows that for some this model was something wives desired to espouse.³² However, Gordon argues that women did not “passively” accept the constraints of the separate spheres ideology, but instead reinterpreted or outright rejected it. Further, “in traversing the divide between the public and the private,” women “constantly blurred the distinctions” between the two realms.³³ Certainly, John Tosh’s extensive research into the ‘flight from domesticity’ suggests that men began to question the associated ideals of separate spheres and domesticity towards the end of the Victorian period. By the 1880s, for the professional classes at least, Tosh argues that domesticity had become associated with “feminine constraint” and that there was “a vogue for ‘adventure’”.³⁴ Whether separate spheres ideology was upheld, unachievable, or undesirable, contested beliefs about the doctrine could lead to tensions that spilled over into unreasonable behaviour, which will be discussed in more detail after the legal landscape of Victorian Britain has been outlined.

An informed view on these long-standing historiographical debates has to stand in the light of the considerable changes that took place during the nineteenth century in the legal position of women within marriage. Although significant differences existed between the legal situations in England and Wales, and Scotland, the law was weighted in favour of men across the British mainland. Once joined in matrimony, Scottish women were not subjected to the common law doctrine of coverture that constricted English and Welsh women’s rights.³⁵ Coverture dictated that wives south of the border were subordinate to their husbands, and in practice consolidated the woman’s legal existence within that of her husband’s. Scottish women remained independent legal figures and could be prosecuted in the criminal courts as such. Symbolically, Scottish women retained their father’s surname after marriage, rather than taking their husband’s. The wife’s continued use of her maiden name served as a reminder of

³¹ Eleanor Gordon and Gwyneth Nair, “The Economic Role of Middle-Class Women in Victorian Glasgow,” *Women’s History Review* 9, no. 4 (December 1, 2000): 798–99.

³² A James Hammerton, “Victorian Marriage and the Law of Matrimonial Cruelty,” *Victorian Studies* 33, no. 2 (Winter 1990): 279–80.

³³ Gordon, “Women’s Spheres,” 232.

³⁴ John Tosh, *Manliness and Masculinities in Nineteenth-Century Britain: Essays on Gender, Family, and Empire*, 2nd ed., *Women and Men in History* (Harlow, England ; New York, 2016), 40.

³⁵ Barclay, *Love, Intimacy and Power*, 51.

the benefits she brought to the “alliance”.³⁶ Scottish wives could, *with their husband’s permission*, trade, run up debts, and bequeath property to the people of their choosing; what is more, they could maintain small, separate estates too, though they required permission to run up debts on these.³⁷ While by comparison to their English and Welsh counterparts Scottish wives were in a privileged position, their marriages were still clearly patriarchal as the husband was the administrative head of the household, with sole control over land the couple may have owned.³⁸ Barclay’s work has shown that, in theory, “male power was balanced with obligations and responsibility” in Scotland.³⁹ Patriarchal ideals, while not denied, were not actively furthered by the all-encompassing system of coverture in Scotland as they were in England and Wales.

While the legal system remained explicitly patriarchal in the early nineteenth century, changes can be observed in the second half of the century. Married women’s property rights were considerably improved for women across Britain by the close of Victoria’s reign. At the beginning of the Victorian period, husbands in all three nations had complete control over the majority of wealth their wife may have, produce, or inherit during their union, from charwomen to aristocratic heiresses, with the exception of a wife’s separate trust. Wealthier women could shelter their interests to an extent through trusts, though this remained a restrictive process that never gave them anything like full control of their assets.⁴⁰ Bills were introduced to change this situation in the second half of the nineteenth century. In Scotland, an 1861 Act enabled deserted wives to seek protection orders for any income they produced, and control of property that would usually be their husband’s domain under *jus mariti* (a husband’s right, under Scots Law, to his wife’s moveable property).⁴¹ Seven years after England and Wales had enacted similar provisions, the Married Women’s Property (Scotland) Act (1877) gave Scottish women control of the income they produced during their marriage.⁴² The 1881 Married Women’s Property (Scotland) Act went much further by removing a husband’s right of *jus mariti*. Control of a wife’s land, though not the income it produced, remained within the domain of the husband as the administrator in most cases.⁴³ However, as Jane Mair has noted, only property acquired

³⁶ Ibid., 72.

³⁷ Ibid., 51.

³⁸ Ibid., 49.

³⁹ Ibid., 46.

⁴⁰ For a full explanation of the intricacies of these systems, see Griffin, *Politics of Gender in Victorian Britain*, 82–83.

⁴¹ Jane Mair, “A Modern Marriage?,” *Edinburgh Law Review* 10, no. 3 (September 2006): 336.

⁴² Ibid., 337.

⁴³ Ibid.

after the passing of this Act was subject to the amendment, unless couples explicitly agreed to observe the new law.⁴⁴

Following a slightly different time schedule, English and Welsh wives were empowered to appeal to Magistrates' courts for protection of their wages if deserted by their husbands under the 1857 Matrimonial Causes Act.⁴⁵ Wages then became women's own separate property under the Married Women's Property Act (1870). Finally, in 1882 an amendment extended the wife's control of her wages to all assets she brought to, or acquired during, the marriage.⁴⁶ These legal changes reduced the control husbands had over their wife's income and property and signal a significant blow to patriarchal authority. However, Griffin has argued that MPs supported changes to English and Welsh law because they were "satisfied that the reforms would not affect their own households" while still helping working-class women hindered by husband's who stole their wages.⁴⁷ Furthermore, it was not until 1935 that British women had property rights equal to those of men.⁴⁸

Marriage by the Victorian period was thus supposed to be efficiently organised to ensure domestic harmony. Far from challenging patriarchal authority, companionate marriage and the system of separate spheres ascribed specific and limited roles to women within marriage, pressuring them to conform to standardised ideals of femininity that left little room for activities that did not involve childrearing, house-keeping or charitable work. While certainly not attainable by all, and not as specific to the Victorian period as some earlier historians have argued, there were also clearly people who aspired to be able to adhere to such a system. The effect of the system of separate spheres is clearly a complex debate. With regards to patriarchal authority, these Victorian marital ideals did little to actively promote the position of women. Nevertheless, there were significant changes towards the end of the period that Griffin has called "little short of revolutionary".⁴⁹ While women were far from equal to men in the eyes of the law, by the *fin de siècle* married women across Britain had greater control of their finances (though not land). The way these marital ideals were presented within debates around unreasonable marital behaviour must be recovered. Such scholarship will deepen understanding of the adaptability of separate spheres and companionate marriage, particularly when identified in spaces that inherently displayed the fallibility of these systems: criminal

⁴⁴ Ibid., 337–38.

⁴⁵ Alex MacMorran, *The Married Women's Property Act 1882 with Introduction, Notes, Appendix of Statutes and Exhaustive Index* (London, 1888), 4–5.

⁴⁶ Griffin, *Politics of Gender in Victorian Britain*, 95.

⁴⁷ Ibid.

⁴⁸ Ibid., 94.

⁴⁹ Ibid., 5.

proceedings for marital violence, or civil proceedings to terminate a marriage on the grounds of unreasonable behaviour.

1.2.2 Ending a Marriage

While Scottish residents have had the option to divorce or separate since 1564, it was not until the Victorian period that significant changes were made to the law surrounding marital breakdown in England and Wales. Understanding the legal landscape around divorce and separation is essential because it is from these cases that we gain the fullest picture of marital breakdown. When matrimonial discord arose, Scottish spouses had more practical solutions than their English or Welsh counterparts. This discrepancy will be addressed first, followed by a discussion of the law regarding child custody in Britain. Informal ways of ending a marriage – desertion and bigamy – were also prevalent and will receive attention.

Since the Reformation, adherence, separation, and divorce have been available to residents of Scotland.⁵⁰ Largely utilised by deserted spouses, a Decree of Adherence legally called upon a spouse to resume their marital duties. Conjugal vows bound spouses to behave with “tenderness and humanity”; husbands and wives were also supposed to “cherish” each other and “preserve the marriage bed inviolate”.⁵¹ Failure to comply with a Decree of Adherence became grounds for *divorce a vinculo matrimonii* in 1756.⁵² A Decree of Restitution of Conjugal Rights was the equivalent in England and Wales, though the penalty for non-compliance was excommunication rather than the practical solution of divorce. A husband or wife with a cruel spouse could opt for a *divorce a mensa et thoro*; sometimes this would be the victim’s first legal appeal for help, but others tried to reform their partner by prosecuting criminally or with a Decree of Adherence.⁵³

Ecclesiastical courts only had the authority to order a *divorce a mensa et thoro* in England and Wales until the Matrimonial Causes Act (1857). Grounds for such proceedings in the English and Welsh Ecclesiastical Courts were more restrictive than in the Scottish Court of Session too. Husbands who suspected their wives of adultery were able to bring proceedings, but wives had to prove aggravated adultery by their husbands – for example cruel behaviour as

⁵⁰ Leah Leneman, *Alienated Affections: The Scottish Experience of Divorce and Separation, 1684-1830* (Edinburgh, 1998), 6.

⁵¹ NRS, CC8/6/1835, Summons; CS46/1890/4/21, ‘Closed Action of Declarator’; CC8/6/1418, Summons.

⁵² *Divorce a vinculo matrimonii* is the Latin term for ‘divorce’ in the modern sense of the word: an absolute dissolution of the marriage releasing both parties of matrimonial obligations; Leneman, *Alienated Affections*, 22.

⁵³ *Divorce a mensa et thoro* is the Latin term for what was later called ‘Judicial Separation’: the separation of bed-and-board, without the right to remarry, and with aliment conditions for the husband.

well as adultery. By contrast, adultery and desertion were both grounds for *divorce a vinculo matrimonii* for husbands *and* wives in Scotland. Only Parliament had the authority to issue a *divorce a vinculo matrimonii* in England and Wales until 1857. According to Roderick Phillips, just 325 divorces were granted by parliament between 1670 and 1857, with just four being awarded to wives divorcing their husbands.⁵⁴ It became apparent that legislation was required to bring England and Wales into alignment with Scotland, because while a couple could be divorced in Scotland, if they were to remarry a new spouse in England then they were guilty of bigamy.⁵⁵ This led to the Matrimonial Causes Act (1857), under which *divorce a mensa et thoro* became known as a Legal Separation – available on the grounds of cruelty – and *divorce a vinculo matrimonii* became known simply as divorce. Rather than taking the opportunity to make it an equally accessible solution for men and women, as was the case in Scotland, divorce was made available on the same sexually discriminative grounds as *divorce a mensa et thoro* had been in the Ecclesiastical courts. As Ann Sumner Holmes’ work has shown, even when this double standard was removed in 1923, it was “conservative arguments that made the 1923 act possible.” She argues the move was engendered by the Christian belief that wives *and* husbands should not be unfaithful, and fears over the dangerous effects of a husband’s adultery on his wife’s health, the connections with sex work, and the possibility of illegitimate children.⁵⁶

The cost of bringing proceedings in England and Wales was more prohibitive than Scotland though, as Leah Leneman admits, the cost of divorce in Scotland “varied enormously”. By the early nineteenth century actions could be as little as £9 16s 8d, but they were usually between £15 and £30.⁵⁷ Scottish parishes could also bring cases on behalf of residents if they were considered too poor to bring the case themselves. Decisions about a person’s need were made on a case by case basis rather than being defined by an arbitrary limit.⁵⁸ Moreover, Leneman has found that Scottish wives who were unsuccessful in their cases were not usually found liable for the costs: “[t]he few cases where they did force women to pay expenses were those they deemed frivolous or fraudulent”.⁵⁹ Before the 1857 Act,

⁵⁴ Roderick Phillips, *Untying the Knot: A Short History of Divorce* (Cambridge, 1991), 66.

⁵⁵ Earl of Donoughmore, ‘Divorce and Matrimonial Causes Bill, Third Reading Bill Passed’, *Hansard*, Ser. 3, Vol. 146, (Lord’s Sitting of 23 June 1857), col. 214.

⁵⁶ Ann Sumner Holmes, “The Double Standard in the English Divorce Laws, 1857–1923,” *Law & Social Inquiry* 20, no. 2 (April 1995): 620.

⁵⁷ Leneman, *Alienated Affections*, 15.

⁵⁸ *Ibid.*

⁵⁹ Leah Leneman, “‘A Natural Foundation in Equity’: Marriage and Divorce in Eighteenth and Nineteenth-Century Scotland,” *Scottish Economic & Social History* 20, no. 2 (November 2000): 212. While Leneman’s work is on the earlier period, when such cases were heard by the Commissary Court, there is no reason to

parliamentary divorces for English and Welsh subjects could cost more than £1000; after the Act, English and Welsh pursuers had to make the journey to the London based Divorce Court, and the cost of proceedings remained around £50, even by the end of the nineteenth century.⁶⁰ English and Welsh applicants with property worth less than £25 could apply to proceed *in forma pauperis*; however the discrepancy between the legal aid limit and the cost of proceedings meant many spouses were left without recompense.⁶¹ In 1878 the Matrimonial Causes Act ameliorated the situation somewhat for abused wives. English and Welsh Magistrates were empowered to provide legal separations to wives whose husbands had been prosecuted for physically abusing them.⁶² Undertaken at an inferior court, a legal separation by a Magistrate was quicker and cheaper than an action in the Divorce Court. The Summary Jurisdiction (Married Women) Act (1895) further empowered Magistrates by enabling them to issue a protection order to English or Welsh wives whose husbands had failed to provide for the family or were abusive. Given the stereotype of the husband as the provider, and women as the weaker sex, neither of these opportunities were made available to husbands with abusive wives.

Another legal consideration concerns custody of children. There was no requirement for British mothers to be given the opportunity to petition for access to their offspring after a couple separated or divorced until the Custody of Infants Act (1839). However, the Court of the King's Bench in England, and Scottish Court of Session, both had the power to give custody of children to mothers.⁶³ Unlike in England, where Elizabeth Foyster claims the King's Bench never exercised their privilege, and contrary to T. Carlaw Martin's contemporary review of the Scottish Court of Session's decisions, surviving documents from the Scottish case of Marion Clark, heard in 1828, stated that her husband was ordered to pay her £20 annually 'for the support of her children'.⁶⁴ While unique in its early date, and not a case brought within the confines of this research, the Clark case signals that there was a precedent for mothers to gain custody before the law was formally changed, at least where the father was abusive. A further eight cases of mothers being awarded custody of children after a separation on the grounds of

suggest this was not the case when the CoS heard the cases; it was certainly still the case during the 1844 Russell *ag.* Paterson case (CS/230/R/10/3).

⁶⁰ Gail Savage, "They Would If They Could: Class, Gender, and Popular Representation of English Divorce Litigation, 1858-1908," ed. Lotta Vikström, Frans Van Poppel, and Bart Van de Putte, *Journal of Family History* 36, no. 2 (April 2011): 174.

⁶¹ *Ibid.*, 176.

⁶² Griffin, *Politics of Gender in Victorian Britain*, 12.

⁶³ Foyster, *Marital Violence*, 2005, 158.

⁶⁴ Foyster, 158; T. Carlaw Martin, *Custody and Guardianship of Children (Scotland)*, *The Making of the Modern Law: Legal Treatises, 1800-1926* (Gale, 2010); NRS, CC8/6/2160, 'Interlocutor's Sheet'.

cruelty before 1884 are recovered in this research – further contradicting Carlaw Martin’s observation that it was the practice of the Court of Session to give the custody of children to the father.⁶⁵ The 1839 Act enabled English and Welsh mothers to petition for custody of children up to the age of seven; however, there were still serious economic and moral barriers. Proceedings were brought through the Chancery court, which was costly, and mothers guilty of adultery were not allowed to petition.⁶⁶

In Scotland, the Conjugal Rights (Scotland) Amendment Act (1861) gave women the right to petition for custody of their children, regardless of age or accusations of adultery.⁶⁷ England and Wales then introduced the Custody of Infants Act (1873), which removed the bar on adulterous mothers, raised the age the children could remain in their mother’s custody and validated private separation deeds that granted mothers custody.⁶⁸ Under the 1878 Matrimonial Causes Act, English and Welsh women who were granted a legal separation by Magistrates’ Court (after their husband was prosecuted for physical assault) could also secure custody of their children under ten years of age in the same court.⁶⁹ This went some way to reducing the economic and emotional obstructions. Regardless of a mother’s right to petition for their children in England, custody overwhelming remained with the father unless there was explicit evidence of abuse towards the children by their father.⁷⁰

Spouses could “simply run away and never be heard of again” if they were unhappy with their marital situation.⁷¹ David Kent studied desertion in pre-industrial London, in particular husbands who deserted into the army or navy – which constituted fifteen per cent of desertions recorded – with the intention of understanding why husbands would choose to desert their families for military service.⁷² While noting the importance of poverty as a factor, Kent argued the isolating nature of urban life enabled desertion: the social and demographic controls that were supposed to preserve marriage were eroded, and the “short acquaintance and dissimilarity of background [between newlyweds] was bound to lead to desertion”.⁷³ Jennine Hurl-Eamon has complicated Kent’s narrative. She has argued that rather than using the army to desert their families, joining the army was “a family survival strategy” and that husbands

⁶⁵ Carlaw Martin, *Custody and Guardianship*, 3.

⁶⁶ Griffin, *Politics of Gender in Victorian Britain*, 11.

⁶⁷ *Ibid.*, 12.

⁶⁸ *Ibid.*, 11–12.

⁶⁹ *Ibid.*, 12.

⁷⁰ *Ibid.*

⁷¹ Stone, *The Family, Sex and Marriage in England 1500-1800*, 38.

⁷² David Kent, “‘Gone for a Soldier’: Family Breakdown and the Demography of Desertion in a London Parish, 1750-92,” *Local Population Studies* 45 (1990): 31.

⁷³ *Ibid.*, 40.

had the “hope of reuniting when circumstances improved”.⁷⁴ By enlisting, husbands could provide their family with wages, bounty, and better access to parochial aid. While escaping unhappy marriages may have been the reason for some men’s enlistment, it was likely further down the list than historians have liked to believe.⁷⁵ Olive Anderson has addressed the subject of desertion by consulting “the stories told in English and Welsh courtrooms by mid-Victorian emigrants’ deserted wives”.⁷⁶ Her work showed that, while overlooked by historians, emigration for the purpose of avoiding marital responsibilities was not uncommon: in 1859 magistrates ordered 719 women to be given *femme sole* status; by comparison there were only 52 divorces and a further 30 judicial separations.⁷⁷ In focusing on the lives of the abandoned wives, Anderson was able to show that, on the whole, they supported themselves. However, she is careful to note that success stories should be read with some caution: it was a requirement of the court for a wife seeking a separation to be able to support herself.⁷⁸

Bigamy was a more multifaceted fault. While it could be linked to desertion as a way of ending a marriage and commencing a new one, it could also be accidental. Hardwicke’s 1753 Act, which regularised the marriage process, meant that couples who remarried after earlier unions broke down faced a more serious threat of prosecution for bigamy because their married status was more widely known. John Gillis argued this led to the establishment of a “set of secular divorce rites” that, having been undertaken, enabled the ‘former’ spouses to cohabit openly in the community with new partners. One common form of self-divorce was achieved when a couple lived separately for a period of seven years, although a new marriage would legally be bigamous.⁷⁹ This simplistic view has been challenged by the work of David Turner in his survey of eighteenth-century bigamy prosecutions heard at the Old Bailey. Turner found that economic gain was increasingly alleged as the motive in bigamy proceedings across the century, showing “bigamy was more than simply a form of popular self-divorce and remarriage”.⁸⁰ Additionally, Turner’s work has highlighted the importance of sex: with regards to forming bigamous marriages, “men may have had fewer scruples ... given their greater

⁷⁴ Jennine Hurl-Eamon, *Marriage and the British Army in the Long Eighteenth Century: “The Girl I Left behind Me,”* First edition (Oxford ; New York, 2014), 359.

⁷⁵ *Ibid.*, 376–77.

⁷⁶ Olive Anderson, “Emigration and Marriage Break-up in Mid-Victorian England,” *The Economic History Review* 50, no. 1 (February 1997): 104.

⁷⁷ *Ibid.*, 104–5.

⁷⁸ *Ibid.*, 108–9.

⁷⁹ John R. Gillis, *For Better, for Worse: British Marriages, 1600 to the Present* (New York, 1985), 209–11.

⁸⁰ David M. Turner, “Popular Marriage and the Law: Tales of Bigamy at the Eighteenth-Century Old Bailey,” *The London Journal* 30, no. 1 (2005): 7, 12, 18.

mobility and the lesser social stigma attached to their having multiple sexual relationships”.⁸¹ Rebecca Probert also records the importance of gender in her examination of the changes in reporting on the 1845 bigamy case of *R v Hall*. Not only were attitudes towards men who had deceived their second wives harsher, but attitudes towards female bigamists generally were lighter regardless of deception because “judges emphasises that the injury done to the second husband was not the same as that done to a second wife”.⁸² Given the context of this thesis, it is also notable that a discrepancy between Scottish and English divorce laws meant that Scottish divorces were not recognised in England. So, couples who divorced in Scotland and remarried a new spouse in England were legally bigamists.

Thus, a marriage could, by the end of the Victorian period, be dissolved legally in both Scotland and England. However, there remained a significant imbalance in England and many unhappy spouses remained legally attached to their partner and unable to marry anyone else because the marital crime of cruelty only warranted legal separation.

1.2.3 Violent Causes of Marital Breakdown

Historical interest in marital violence – the most commonly studied cause of marital breakdown – was encouraged by the Women’s Liberation Movement, which began in Britain in 1970.⁸³ Since Nancy Tome’s ground-breaking article the subject has expanded with historians largely focusing on the working-class experiences.⁸⁴ Recording the level of, and reasons for, marital violence in society has been a key research focus of historians to date; this comes as no surprise given the importance of such information to contemporary activism. More recently, however, it has become important to *locate* historical marital violence. A greater understanding of where violence occurred – and who *could* have observed it – has enabled historians to make inferences regarding the acceptance of abuse within wider society. Historians have also approached the subject with a focus on interventions. This work has been divided between household and community responses, and professional responses. While marital violence histories are a genre

⁸¹ Ibid., 17.

⁸² Rebecca Probert, “R v Hall and the Changing Perceptions of the Crime of Bigamy,” *Legal Studies* 39 (2019): 14.

⁸³ Sisterhood and After Research Team, ‘Women’s Liberation: A National Movement’, *British Library*, (8 March 2013), <<https://www.bl.uk/sisterhood/articles/womens-liberation-a-national-movement>> [Last Accessed: 4th August 2017].

⁸⁴ N. Tones, “A ‘Torrent of Abuse’: Crimes of Violence Between Working-Class Men and Women in London, 1840-1875,” *Journal of Social History* 11, no. 3 (March 1, 1978): passim.

in themselves, they also contribute to the larger debate on the place of violence in society, which must first be understood.

With regards to the display of violence, social etiquette was highly gendered in the Victorian period. Until recently, historians of violence largely focused on physical acts conducted by men, taking the violent actions of women less seriously.⁸⁵ Anne-Marie Kilday explained, in her study of Scottish female criminals during the earlier period of 1750-1815, that violent women “were said to have ignored the gendered norms ascribed to them”.⁸⁶ With regards to violence in marriage, an abusive wife was such a reversal of roles that husbands would have been unwilling to admit their status as victims.⁸⁷ Through analysis of Victorian responses to female criminality, Lucia Zedner argued such a serious transgression as breaking the law meant female criminals were judged doubly: a “moral menace” not only for committing a crime, but also for not conforming to the ideal of “the angel in the home”.⁸⁸ This thesis was opposed by Martin Wiener who argued that the opposite was true in his investigation of nineteenth-century criminal records. He opined that a rise in prosecutions for assault and the stigmatisation of physical force acted to “disproportionately stigmatize and criminalise *men*”.⁸⁹ Robert Shoemaker addressed the effect of ideas of respectability on the prevalence of male violence in eighteenth-century London and was careful to note that “[p]ublic violence may have declined, but violence in other contexts [i.e., marital violence] persisted”. This decline in public male violence, he argued, was due to the restructuring of masculinity around ideals concurrent with domesticity: the sensitive, charitable, and refined man.⁹⁰

This sentiment is echoed in the works of Pieter Spierenburg, John Carter Wood, and Rosalind Crone.⁹¹ In his survey of the nineteenth-century transition(s) between customary and civilised violence, Carter Wood noted that although the “civilising offensive” was successful in suppressing much violence in public spaces, “the private sphere was, in relative terms,

⁸⁵ Joachim Eibach, “Violence and Masculinity,” in *The Oxford Handbook of the History of Crime and Criminal Justice*, by Paul Knepper and Anja Johansen (Oxford, 2016), passim.

⁸⁶ Anne-Marie Kilday, *Women and Violent Crime in Enlightenment Scotland* (Woodbridge, 2007), 9.

⁸⁷ Kilday, *Women and Violent Crime*, 2007, 88.

⁸⁸ Lucia Zedner, *Women, Crime, and Custody in Victorian England*, Oxford Historical Monographs (Oxford : New York, 1991), 11, 17, 30.

⁸⁹ Martin J Wiener, “The Victorian Criminalisation of Men,” in *Men and Violence: Gender, Honour and Rituals in Modern Europe and America*, by Pieter Spierenburg (Columbus, OH, 1998), 199, 204.

⁹⁰ Robert Shoemaker, “Male Honour and the Decline of Public Violence in Eighteenth-Century London,” *Social History* 26, no. 2 (May 2001): 207.

⁹¹ Pieter Spierenburg, *A History of Murder: Personal Violence in Europe from the Middle Ages to the Present* (Cambridge, UK: Polity, 2008); J. Carter Wood, *Violence and Crime in Nineteenth-Century England: The Shadow of Our Refinement* (Abingdon, Oxfordshire: Routledge, 2004); Rosalind Crone, *Violent Victorians: Popular Entertainment in Nineteenth-Century London* (Manchester ; New York: Manchester University Press, 2012).

untouched”.⁹² Similarly, Crone has considered the perpetuation of violence in popular entertainments in the nineteenth century, which enabled her to further explore Shoemaker’s claim that private violence persisted. Despite the reshaping of public male violence, violence survived within the private sphere – both physically in the form of marital cruelty and within the imagination through popular culture.⁹³ Opinions regarding the appropriate uses of violence in Victorian society, and male marital violence specifically, were clearly complex. Physical correction was simultaneously considered inappropriate and condoned, a reminder of the uncivilised nature of some British subjects, yet occurring within the private, cornerstone of Victorian society: marriage.⁹⁴ Keeping this inherent contradiction in mind while considering some of the scholarship produced on marital violence will go some way to understanding the complexity of beliefs surrounding the phenomenon.

Existing histories of marital violence have predominantly focused on working-class experiences, primarily in England. This has been the case because of the visibility of the working classes in ecclesiastical and magistrates court records. Given the desires of the ruling classes to control this section of society, this is not an unusual phenomenon in criminal justice histories. Concentration on English working-class couples offered historians the possibility of utilising more fluid definitions of marriage. State regularisation, in the form of the ‘Hardwicke’ Marriage Act of 1753, made seeking an official license, or the reading of banns and parental consent, requirements for marriage in England and Wales (Scotland remained under medieval canon law: women over the age of 12 and men over the age of 14 could marry on the basis of mutual consent alone). Imposed from above, Gillis has argued this definition of marriage would not have been recognised by many of the poorer members of society who chose ‘irregular’ marriage or cohabitation over this formal religious process.⁹⁵ However, this opinion is strongly contested by Probert, who found there was “virtually no evidence that couples failed to comply with the requirements of the 1753 Act”.⁹⁶ For the most part, the opportunity to employ a less top-down, legalistic definition of marriage has been missed by historians. Only Ginger Frost has given serious attention to the intricacies of cohabiting couples.⁹⁷

⁹² Carter Wood, *Violence and Crime*, 143.

⁹³ Crone, *Violent Victorians*, 5.

⁹⁴ Hammerton, *Cruelty and Companionship*, 164.

⁹⁵ Gillis, *For Better, for Worse*, 192.

⁹⁶ Rebecca Probert, *Marriage Law and Practice in the Long Eighteenth Century: A Reassessment*, Cambridge Studies in English Legal History (Cambridge, 2009), 283.

⁹⁷ See for example: Ginger Frost, *Living in Sin: Cohabiting as Husband and Wife in Nineteenth-Century England*, Paperback edition, Gender in History (Manchester, 2011).

By sampling newspaper reports of police, magistrate and assize court proceedings from London, Lancashire and Yorkshire, Frost was able to reveal how class differences between judges, juries and defendants created tensions. Unachievable expectations were placed on working-class men by the middle-class judges because they failed to appreciate the realities of living in poverty.⁹⁸ At times historians have included middle-class violence within their samples. However, the deliberate and false association of marital violence with the working classes – particularly by the Victorians – is thought to have discouraged middle- and upper-class victims from reporting their situation, making the evidence more elusive.⁹⁹ Litigants of the wealthier classes are significantly more visible in the archival records of the London Divorce Court (opened 1858), which A. J. Hammerton and Gail Savage have made fruitful use of.¹⁰⁰ Elizabeth Foyster studied the change in opinions towards marital violence between the Restoration and the passing of the Matrimonial Causes Act (1857) through case studies from the Ecclesiastical courts. The inclusion of litigants across the class spectrum enabled Foyster to show that, by the mid-nineteenth century, class was an “important determinant” of cruel behaviour.¹⁰¹ In short, an aristocratic woman could not be subjected to the same treatment a working-class woman could be expected to suffer.¹⁰²

Studying the incidence of marital violence in society at a given time is a common theme in the existing scholarship. Tames used a study of 100 cases of male-on-female violence – around half of which involved married couples – to challenge the view that there had been “a general worsening of the working-class women’s lot” in the mid-nineteenth century.¹⁰³ For her, the rise in working-class women’s living standards, which led them to aspire to middle-class notions of respectability and in turn become more submissive, accounted for the reduction in cases of marital violence before the courts.¹⁰⁴ For Susan Dwyer Amussen it was too simplistic to claim the position of abused wives improved over time without considering the system of patriarchy. While rates of prosecution reduced, in reality, patriarchal power only condemned the most severe abuses.¹⁰⁵ Subsequent historians have more cautiously posited that levels of

⁹⁸ Ginger Frost, “‘He Could Not Hold His Passions’: Domestic Violence and Cohabitation in England (1850-1905)”, *Crime, Histoire & Sociétés* 12, no. 1 (1 April 2008): 40.

⁹⁹ Griffin, *Politics of Gender in Victorian Britain*, 67.

¹⁰⁰ Hammerton, *Cruelty and Companionship*; Savage, “They Would If They Could.”

¹⁰¹ Foyster, *Marital Violence*, 2005, 72–74.

¹⁰² *Ibid.*

¹⁰³ Tames, “A ‘Torrent of Abuse,’” 328.

¹⁰⁴ *Ibid.*, 342.

¹⁰⁵ Susan Dwyer Amussen, “‘Being Stirred to Much Unquietness’: Violence and Domestic Violence in Early Modern England,” *Journal of Women’s History* 6, no. 2 (1994): 80, 84.

domestic violence likely stayed steady. This is because, since Tomes' publication, historians have given considerable attention to the existence of the 'dark figure'.¹⁰⁶ Not every crime in history has been recorded, and not all records of reported crimes survive for historians. Peter King has shown it cannot be assumed that the relationship between indictments and actual levels of appropriation remained constant.¹⁰⁷ Furthermore, in the context of marital behaviour, Barry Godfrey has claimed "[d]omestic violence was possibly the largest category of unprosecuted violence".¹⁰⁸ As Lynn Abrams' work on marriage breakdown in nineteenth-century Germany has shown, the persistence of shame around marital cruelty left victims of domestic violence "prisoner[s] of domestic ideology".¹⁰⁹ Likewise, Jennifer Davis identified a "respectable woman" who delayed in going to the Magistrates' Court regarding marital cruelty because she was ashamed to attend.¹¹⁰

Understanding the complex causes of marital violence has been another task undertaken by historians. Collectively their work offers the most compelling critique of the argument that companionate marriage, and adherence to the accompanying system of separate spheres, resulted in enhanced domestic harmony in the Victorian period. The standards that men and women were encouraged to aspire to – stoic breadwinners and passive, nurturing, housewives respectively – were unachievable for the majority of working-class and lower-middle-class couples.¹¹¹ Even those who could afford to live lives in this regulated style still encountered tensions, created by the pressures of adherence to such ideals amongst those who could, and by aspiration to such a lifestyle by those who could not.

In addition to these wider causes of marital violence, historians have identified certain factors that were specific to working-class couples. Ellen Ross noted that a husband's unemployment was a key factor in assault and murder trials between 1870 and 1914 in London. Such circumstances, she contended, "generated almost intolerable domestic tensions".¹¹² Clark delved further into the economic factors involved and found that a "'sexual crisis' characterised

¹⁰⁶ David Churchill, "Crime, Policing and Control in Leeds, C.1830-1890" (Ph.D Thesis, The Open University, 2012), 13.

¹⁰⁷ Peter King, *Crime, Justice, and Discretion in England: 1740 - 1820* (Oxford, 2003), 131.

¹⁰⁸ Barry Godfrey, "Counting and Accounting for the Decline in Non-Lethal Violence in England, Australia, and New Zealand, 1880-1920," *British Journal of Criminology* 43, no. 2 (March 1, 2003): 349.

¹⁰⁹ Lynn Abrams, "Crime against Marriage? Wife-Beating, the Law and Divorce in Nineteenth-Century Hamburg," in *Gender and Crime in Modern Europe*, by Margaret L. Arnot and Cornelia Osborne (London, 1999), 128.

¹¹⁰ Jennifer Davis, "A Poor Man's System of Justice: The London Police Courts in the Second Half of the Nineteenth Century*," *The Historical Journal* 27, no. 02 (June 1984): 320.

¹¹¹ Clark, *The Struggle for the Breeches*, passim.

¹¹² Ellen Ross, "'Fierce Questions and Taunts': Married Life in Working-Class London, 1870-1914," *Feminist Studies* 8, no. 3 (1982): 581.

plebeian culture”.¹¹³ Male artisans married before becoming masters, and their journeymen wages could not support a family. They continued to lead libertine lifestyles and also came into conflict with female sweated labourers, furthering misogynistic tendencies that were detrimental to domestic harmony, and regularly spilled over into violence in the home.¹¹⁴ On a positive note, Clark identified lower rates of marital violence between Glaswegian textile workers and their wives, and cited the cooperative nature of the industry as the reason for women’s greater protection.¹¹⁵ However, Joanne Begiato (Bailey), cautions that “[t]he link between spouses’ employment and the quality of the marital relationship is appealing but by no means proven”.¹¹⁶ Frost recognised cohabitees suffered from many of the same tensions as legally married couples – principally sexual jealousy and economic strife – but she also noted that “some types of violence were peculiar to cohabiting relationships”.¹¹⁷ Men had no legal rights to their biological children born out of wedlock, and women could leave at any time to “make things right” with someone else.¹¹⁸ Subsequently, male anxieties regarding their honour and a “fear of being ‘shown up’” were causes of marital violence that were specific to cohabiting couples.¹¹⁹

Locating marital violence has only recently become a serious concern for historians. Traditionally there has been an assumption that violence took place in public spaces and then became more private towards the Victorian period as the family turned inwards. Shoemaker argued that there was a ‘privatization’ of violence in his study of homicide in London in the eighteenth century.¹²⁰ Similarly, Margaret Hunt has traced the effect of the “cult of civility” on marital cruelty, and argues that it helped to “create that veil of silence” that prevented middle-class women from revealing the abuse they suffered for fear of shame.¹²¹ However, Foyster convincingly shows that marital violence continued to be discussed in polite society, which in turn helped to create new ways for women to express discontent and resist abuse in marriage.¹²² Furthermore, Begiato (Bailey) has contested the assumption that marital violence followed the

¹¹³ Clark, *The Struggle for the Breeches*, 6.

¹¹⁴ Ibid., 6, 70.

¹¹⁵ Ibid., 75.

¹¹⁶ Joanne Bailey, *Unquiet Lives: Marriage and Marriage Breakdown in England, 1660 - 1800*, 2nd ed., Cambridge Studies in Early Modern British History (Cambridge, 2008), 96.

¹¹⁷ Frost, “He Could Not Hold His Passions”, 29.

¹¹⁸ Ibid., 29, 41.

¹¹⁹ Ibid. NB: In Scotland, children born out of wedlock became legitimate if their parents later married, this was not the case in England and Wales until the Legitimacy Act (1926).

¹²⁰ Shoemaker, “Male Honour and the Decline of Public Violence in Eighteenth-Century London,” passim.

¹²¹ Margaret Hunt, ‘Wife Beating, Domesticity and Women’s Independence in Eighteenth-Century London’, *Gender & History* 4, no. 1 (March 1992): 27.

¹²² Elizabeth Foyster, “Creating a Veil of Silence? Politeness and Marital Violence in the English Household,” *Transactions of the Royal Historical Society* 12 (December 2002): 399.

same pattern, calling it “conceptually and methodologically problematic”.¹²³ In particular she challenged the simplistic equation of ‘private’ with ‘indoors’, or in front of known witnesses, by mapping the sites of wife-beating and wife-murder in the eighteenth century.¹²⁴ This exercise made it clear that secrecy was more important to the definition of privacy than the physical space in which an attack took place because violence did not have to occur indoors to be unobserved.¹²⁵ Begiato (Bailey) also acknowledged that the move from ‘observed’ to ‘hidden’ marital violence was a classed phenomenon as working-class living arrangements, “made such abuse more easily discerned and open to public scrutiny”.¹²⁶ This theory has been expanded in Begiato’s more recent scholarship, which has interrogated the role of materiality in marital violence history and found that it was “increasingly perceived to be class-related”.¹²⁷ More broadly, this work has convincingly demonstrated that “[d]omestic spaces were imbued with tensions arising from spouses’ un-demarcated and uncertain spheres of influence and authority”.¹²⁸

A final dominant theme in marital violence scholarship concerns the intervention of others in marital disputes. Historians have been motivated to study intervention because it can convey wider opinions regarding the acceptability of violence in marriage. Interventions by family, neighbours and kin are considered separate from intervention by professionals because they were conceived of differently by contemporaries, and because they followed divergent patterns over time. For the early modern period, Amussen has contextualised attitudes towards marital violence within opinions concerning violence more generally. Through a study of legal records and contemporary popular culture, her analysis has shown that “critical observation was not limited to domestic violence”.¹²⁹ Furthermore, neighbours would attempt to reconcile couples, but would also offer moral support and act as witnesses if necessary.¹³⁰ Foyster described a similar situation in her study, finding family members, neighbours and servants were willing to intervene and support victims. She challenged the notion, opined by historians of the nineteenth century, that marital violence became more undetectable as family life became more private, and instead claimed “the desire to display good manners provided new

¹²³ Joanne Bailey, “‘I Dye [Sic] by Inches’: Locating Wife Beating in the Concept of a Privatization of Marriage and Violence in Eighteenth-Century England,” *Social History* 31, no. 3 (August 2006): 276.

¹²⁴ *Ibid.*, 273.

¹²⁵ *Ibid.*, 290–93.

¹²⁶ *Ibid.*, 294.

¹²⁷ Joanne Begiato, “Beyond the Rule of Thumb: The Materiality of Marital Violence in England c. 1700–1857,” *Cultural and Social History* 15, no. 1 (2018): 42.

¹²⁸ *Ibid.*, 55.

¹²⁹ Amussen, “Being Stirred to Much Unquietness,” 78.

¹³⁰ *Ibid.*, 78–80.

opportunities for detecting and reacting to abuse”.¹³¹ In a study of eighteenth-century London legal records, Margaret Hunt found that “[n]eighbors and relatives, and especially female neighbors and relatives, figure[d] prominently”. She also listed examples of mothers directly confronting – physically and verbally – abusive sons-in-laws.¹³² A very different picture is conveyed by Tomes with regards to the early Victorian period. While Tomes noted that some women could seek shelter with neighbours, she also claimed that “[n]eighbors and friends rarely intervened directly” as the more common response was to survey an ongoing situation and verbally criticise *severe* abuse.¹³³ Additionally, Ross concurred with Tomes that there was an unwillingness to directly intervene in marital quarrels in the later Victorian period. She claimed neighbours would only step in during the most extreme circumstances: “the presence of a really dangerous weapon, the sight of a lot of blood, or the sounds of real terror”.¹³⁴ A pattern emerges within existing historiography that suggests marriage became an increasingly private institution between the early modern and Victorian periods, a change that meant women were less protected from abuse.

In contrast to this pattern of decline, professional intervention became more prevalent, though not necessarily more effective. Foyster’s temporal scope facilitated closer investigation of the change in attitudes towards intervention. She found professionals “shared the same ideas and prejudices” as abusers, so did not strongly condemn violence.¹³⁵ Furthermore, the rise in professional responses, she argued, caused “widespread public apathy towards marital violence”.¹³⁶ Hammerton also questioned how effectively the judiciary could deal with marital violence, calling their decisions, “callous and lenient”.¹³⁷ With regards to wider opinions towards marital violence in the nineteenth century, Hammerton cautiously warned the period was “marked by the coexistence of tolerance and condemnation”.¹³⁸ During the Victorian period Tomes and Ross were able to record women more regularly going to the police after attacks. However, they were careful to note that the majority of incidents would not have been reported, and that women rarely continued with proceedings after the initial report was filed.¹³⁹ Davis’ pioneering survey of the London Police Courts tells an important story of working-class women’s agency and goes some way to explaining why women would not continue with a

¹³¹ Foyster, *Marital Violence*, 2005, 170.

¹³² Hunt, “Wife Beating, Domesticity and Women’s Independence in Eighteenth-Century London,” 21–22.

¹³³ *Ibid.*, 32.

¹³⁴ Ross, “Fierce Questions and Taunts,” 592.

¹³⁵ Foyster, *Marital Violence*, 2005, 230.

¹³⁶ *Ibid.*, 233.

¹³⁷ Hammerton, *Cruelty and Companionship*, 67.

¹³⁸ *Ibid.*, 16.

¹³⁹ Ross, “Fierce Questions and Taunts,” 591; Tomes, “A ‘Torrent of Abuse,’” 333.

case. Davis argues that women, particularly from poorer areas, would use the police courts to manage their partner's cruelty: while sometimes they sought a prosecution, other times they desired a solution more amenable to their reality, including non-existent 'protection orders', having their husband bound over to keep the peace, or simply making the report as a threat to their husband.¹⁴⁰ With regards to direct police intervention, Tomes characterised the policeman's work as "an extension of the working-class community's efforts", as they utilised the same techniques of observation and verbal condemnation.¹⁴¹ The ability of the police court magistrates, rather than individual police constables, to help abused women was the focus of Annmarie Hughes' pioneering study of wife-beating in nineteenth- and twentieth-century Scotland, which utilised newspaper reports of criminal court proceedings.¹⁴² Similar to Hammerton's observations of the English judiciary's treatment of marital violence, her findings suggested that the Scottish Police courts only treated marital violence "superficially... evident in the minimal risk of punishment for wife-beating".¹⁴³ At first, such casual treatment of violence against wives seems to contradict Wiener's thesis that attitudes towards violent men in the Victorian period were "hardening", while there was "growing sympathy for 'women's wrongs'".¹⁴⁴ However, the use of probation as a means of punishment could arguably be seen to be avoiding further "women's wrongs" by not removing the family's breadwinner. Louise Settle's forthcoming research on the use of probation in wife assault cases in Scotland is therefore highly anticipated.¹⁴⁵

To conclude, English historical marital violence has clearly received much attention, although the situation in Scotland – where abused spouses could more cheaply access a separation – has been largely overlooked bar limited enquiries into the attitudes of the criminal courts. Moreover, the legal differences in Scotland make relationships from across the class spectrum more visible. Furthermore, existing scholarship has adhered to the narrow definition of marital cruelty as physical violence, leaving certain examples of behaviour under- or unexplored.

¹⁴⁰ Davis, "A Poor Man's System of Justice," 320–22.

¹⁴¹ Tomes, "A 'Torrent of Abuse,'" 336.

¹⁴² Hammerton, *Cruelty and Companionship*, 67; Annmarie Hughes, "The 'Non-Criminal' Class: Wife-Beating in Scotland (c. 1800-1949)", *Crime, Histoire & Sociétés* 14, no. 2 (1 December 2010): passim.

¹⁴³ Hughes, "The 'Non-Criminal' Class," December 1, 2010, 32.

¹⁴⁴ Martin J Wiener, *Men of Blood: Violence, Manliness, and Criminal Justice in Victorian England* (Cambridge, 2010), 123.

¹⁴⁵ Louise Settle, "An Emotional State: Probation and the Regulation of Interpersonal Relations in Britain, 1900-1950" (Unpublished Paper, British Criminal Historian's Symposium, The University of Edinburgh, October 8, 2016).

1.2.4 Other Causes of Marital Breakdown

Alongside physical abuse, there were many other ways a spouse could act inappropriately in marriage. Abuse could be economic, psychological or verbal, and the limited scholarship on these themes will now be surveyed alongside work on slander and adultery more widely. Forms of non-physical behaviour have been considered by some historians. Certainly, Joanne Begiato (Bailey) and Loreen Giese, have done much to contest the misconception that marital cruelty only developed non-physical forms in the nineteenth century. Their comparative study has shown “litigants and witnesses, regardless of gender, in the later sixteenth as well as the later eighteenth century identified a combination of intimidating and contemptuous acts – such as physical violence, marital neglect, and verbal abuse – as forms of marital cruelty”.¹⁴⁶ Thus, relationships did not always suffer only from physical violence. Verbal, economic, sexual and psychological abuse, alongside acts of cruelty that do not fit a specific label, could all contribute to a “system of maltreatment”.¹⁴⁷ However, these behaviours are not given equal attention in surveys of marital violence nor violence in society more broadly. In the introduction to an edited collection on everyday violence, Shani D’Cruze recognised that much of the violence discussed in the collection “was direct physical or sexual aggression”, but noted in passing that “other coercive and threatening behaviours could also be considered violence”.¹⁴⁸ Jacky Burnett’s impressive survey of attitudes towards marital cruelty among English Women’s Co-operative Guild members reveals that Guild members had a broad understanding of cruelty in marriage that encompassed “physical, mental, financial and sexual” abuse, and included unfaithfulness, venereal disease, and unreasonable demands for conjugal rights.¹⁴⁹ Evidently recognition of the unreasonable nature of non-physical violence was not an exclusively Scottish phenomenon, and it warrants significantly more investigation.

Physical violence has always, legally, been the definition of ‘cruel’ behaviour in a marriage. However, historians studying court records have been able to trace how opinions changed with regards to the requirement of physical violence in accusations of cruelty. Begiato (Bailey) contended that the legal definition of cruelty had expanded to include “violence that

¹⁴⁶ Joanne Bailey and Loreen Giese, “Marital Cruelty: Reconsidering Lay Attitudes in England, c. 1580 to 1850,” *The History of the Family* 18, no. 3 (2013): 295.

¹⁴⁷ NRS, CS228/C/27/9, Summons.

¹⁴⁸ Shani D’Cruze, “Introduction: Unguarded Passions: Violence, History and the Everyday,” in *Everyday Violence in Britain, 1850-1950: Gender and Class*, ed. Shani D’Cruze, Women and Men in History (Harlow, England New York, 2000), 17.

¹⁴⁹ Jacky Burnett, “Exposing ‘the Inner Life’: The Women’s Co-Operative Guild’s Attitude to ‘Cruelty,’” in *Everyday Violence in Britain, 1850-1950: Gender and Class*, ed. Shani D’Cruze, Women and Men in History (Harlow, England New York, 2000), 145–47.

was less furious, as well as verbal threats to life” by the eighteenth century.¹⁵⁰ Foyster concurred in her study of marital violence. Definitions of violence, she found, were broader than physical beatings, and included “a much wider range of abuses” that, by the end of her period, no longer *had* to threaten life.¹⁵¹ Hammerton’s detailed study of cases heard by the London Divorce Court revealed that the threat of violence was considered sufficient to negate condonation, though was not necessarily cruelty itself at this time.¹⁵² Hammerton posited that the interest of the court changed in the late nineteenth century, as more attention was given to the effects the acts had rather than the nature of an act itself.¹⁵³ Economic control was one particular type of non-physical abuse noted by all three. Begiato (Bailey) noted that over one-third of women made the claim that their husbands had denied them control of the household.¹⁵⁴ Foyster found that in addition to a husband’s infringement upon his wife’s household role, his failure to provide “necessaries” also warranted the adjective ‘cruel’, and caused “physical hardship, but also... [had] emotional or psychological costs”.¹⁵⁵ For Hammerton, the removal of the wife from her role as household manager was an “offence against separate spheres”.¹⁵⁶

Another issue that has not been sufficiently addressed within the context of marital breakdown is slander. While the subject has been overlooked, it does feature in the cases of separation and divorce in Scotland, and so existing work on slander in other contexts deserves attention within this review. Important work has been conducted by Stephen Waddams in his study of defamation cases brought before the English Ecclesiastical Court in the nineteenth century. Sexual slander displayed the gendered nature of verbal abuse. Ninety per cent of plaintiffs were female, and Waddams reminded us that slanderous accusations against women could have dangerous consequences because of the gendered nature of late-Victorian legal systems, which considered a woman’s sexual reputation more important than a man’s.¹⁵⁷

Despite this limited exploration of verbal abuse by historians of marriage, other subjects and disciplines have developed some useful theories that this thesis will draw from. Within the context of violence against enslaved people in early-nineteenth-century Jamaica, Diana Paton has argued that “words in themselves and through their relationship to violent acts, played a

¹⁵⁰ Bailey, *Unquiet Lives*, 142.

¹⁵¹ Foyster, *Marital Violence*, 2005, 31.

¹⁵² Victims who returned to abusive spouses were legally considered to have ‘condoned’ all previous abuse, making it inadmissible in court.

¹⁵³ Hammerton, *Cruelty and Companionship*, 119, 126, 128.

¹⁵⁴ Bailey, *Unquiet Lives*, 77.

¹⁵⁵ Foyster, *Marital Violence*, 2005, 52.

¹⁵⁶ Hammerton, *Cruelty and Companionship*, 128.

¹⁵⁷ S. M. Waddams, *Sexual Slander in Nineteenth-Century England: Defamation in the Ecclesiastical Courts, 1815-1855* (Toronto ; Buffalo, 2000), 188, *passim*.

certain role in asserting and attempting to perpetuate the dominance of slave-owners” .¹⁵⁸ This recognition of the power that verbal abuse could convey to abusers is echoed in the interdisciplinary approach of Jarmila Mildorf, who explores the verbal abuse portrayed in the novel *The Woman Who Walked Into Doors*.¹⁵⁹

One group of physical acts not widely incorporated into histories of marital violence concerns sexual behaviour. The ‘communication’ of venereal disease between husbands and wives was the focus of one of Savage’s early publications, wherein she noted that divorce cases brought primarily on the grounds of the “wilful injection” of venereal disease were more frequently rejected than those with other rationales.¹⁶⁰ While she argued that the airing of these grievances in court gradually reshaped the form of the “*proper* authority of the husband”, the dearth of investigation into sexual assault in marriage was also recognised by Hammerton in his survey of the same records.¹⁶¹ His observation that sexual cruelty was the “area we still know least about” is as true now as it was in 1992, especially in the case of Scotland.¹⁶² While he pays attention to sexual assaults (such as reports of intercourse too soon after childbirth) he also argues for investigation of the then legal act of marital rape. For Hammerton, the fact that violence took place so regularly while couples were in bed implied “an obvious sexual background”, and his careful reading between the lines of the complainants’ depositions support this theory.¹⁶³ In a similar vein, Foyster also argued that marital rape should be considered alongside other forms of physical violence.¹⁶⁴ She also contended that “[w]ithin marriage, violence in all its forms was sexualised” because of the context of the violence – a sexual relationship – in conjunction with the fact violence against female spouses focused on areas associated with sexual reproduction and reportedly broke out “frequently” while couples were in bed.¹⁶⁵ Savage returned to the theme of sexual assault in an article focussed on the later Victorian period, concluding that while social norms still constricted wives trying to resist “the untrammelled sexuality of their husbands”, the London Divorce Court and the ability of judges

¹⁵⁸ Diana Paton, “Gender, Language, Violence and Slavery: Insult in Jamaica, 1800–1838,” *Gender & History* 18, no. 2 (2006): 246.

¹⁵⁹ Jarmila Mildorf, “Words That Strike and Words That Comfort: Discursive Dynamics of Verbal Abuse in Roddy Doyle’s *The Woman Who Walked Into Doors*,” *Journal of Gender Studies* 14, no. 2 (2005): 107–22.

¹⁶⁰ Gail Savage, “‘The Wilful Communication of a Loathsome Disease’: Marital Conflict and Venereal Disease in Victorian England,” *Victorian Studies* 34, no. 1 (1990): 47.

¹⁶¹ Savage, 39, 50; Hammerton, *Cruelty and Companionship*, 108.

¹⁶² Hammerton, *Cruelty and Companionship*, 108.

¹⁶³ *Ibid.*

¹⁶⁴ Foyster, *Marital Violence*, 2005, 37.

¹⁶⁵ *Ibid.*, 36.

to deprive a man “of his status as husband” led to men being held more accountable for the treatment of their wives.¹⁶⁶

Beyond the English context, Robert Griswold has uncovered a significant change in legal attitudes towards sexual cruelty in marriage in the United States. According to Griswold, from the 1840s, the US started to move away from the English interpretations of marital cruelty. Although the US courts still insisted only “grave and weighty” arguments warranted divorce, “the definition of ‘grave and weighty’ expanded” to include numerous non-physical behaviours, particularly sexual abuses.¹⁶⁷ Griswold’s definition of sexual cruelty is broad in nature; as well as “sexual epithets, sexual excesses, and sexual deprivations”, he includes false accusations of adultery.¹⁶⁸ Ultimately, conceptions of marital cruelty expanded in the Victorian US and for Griswold, attitudes towards sexual cruelty “played a crucial role in legitimating” this expansion.¹⁶⁹

A final understudied form of behaviour that could lead to marital breakdown was adultery. Begiato (Bailey) has claimed that, during the Victorian period, adultery “became increasingly associated in the public mind with the aristocracy”. She also called for greater enquiry into the attitudes of ordinary people and towards female adultery particularly.¹⁷⁰ In a later investigation of public responses to the O’Shea v. O’Shea divorce, Jane Jordan attempted to understand the views of ordinary people towards female infidelity. Charles Stewart Parnell, the upper-class leader of the Irish Parliamentary Party (1882-1891), had an eight-year relationship with the middle-class Katharine (Kitty) O’Shea, wife of Capt. William O’Shea, during the 1880s.¹⁷¹ Capt. O’Shea ignored the affair until the death of Kitty’s wealthy aunt in 1889. After receiving his inheritance from his wealthy aunt-in-law, he promptly filed for divorce.¹⁷² When the O’Sheas divorced in 1890 their case was widely discussed and, eventually, caused the political demise of Parnell.¹⁷³ The public were never informed of Capt. O’Shea’s compliance, so Parnell and Kitty were painted as the immoral culprits and Capt.

¹⁶⁶ Gail Savage, “... the Instrument of an Animal Function”: Marital Rape and Sexual Cruelty in the Divorce Court, 1858–1908’, in *The Politics of Domestic Authority in Britain since 1800*, ed. Lucy Delap, Ben Griffin, and Abigail Wills (London: Palgrave Macmillan UK, 2009), 44, 53–54.

¹⁶⁷ Robert Griswold L., “Law, Sex, Cruelty, and Divorce in Victorian America, 1840-1900,” *American Quarterly* 38, no. 5 (1986): 723–24.

¹⁶⁸ *Ibid.*, 724–25.

¹⁶⁹ *Ibid.*, 739.

¹⁷⁰ Bailey, *Unquiet Lives*, 42.

¹⁷¹ Jane Jordan, “‘Our Modern Code of Morals’: Public Responses to the 1890 O’Shea v. O’Shea Divorce Case,” *Victorian Review* 37, no. 2 (2011): 76.

¹⁷² *Ibid.*, 79.

¹⁷³ *Ibid.*, 80.

O'Shea as an oblivious cuckold.¹⁷⁴ Employing the theory of Gertrude Himmelfarb – that secularisation caused many Victorians to become moral zealots – Jordan claimed the expansion of the franchise in 1884 made voters keener to comment on the morality of their superiors.¹⁷⁵ While Jordan implies morality was becoming more important to Victorians, the focus on a single aristocratic affair precluded proper investigation of opinions towards adultery in day-to-day life.

In conclusion, forms of unreasonable marital behaviour other than physical violence have been understudied. Furthermore, scholarship has failed to show how different forms of behaviour were integrated, and how victims came to the point of attracting the intervention of an outsider.

1.3 Research Questions

This literature review has demonstrated the breadth of enquiry conducted on unreasonable historical marital behaviour, as well as the significance such research has to our wider understanding of the society in which the violence occurred. It has also exposed the numerous unexplored angles of marital violence history. By focusing on the experience of marital cruelty in the context of Greater Glasgow over a long time frame, this thesis will interrogate the variable of class, paying unprecedented consideration to non-physical behaviours, thus addressing some of the gaps in the literature. The literature review has made clear that much of the existing literature is England-centric. Researchers have rightly made use of the plethora of cases from the Ecclesiastical Courts and later the Divorce Court, as well as the abundance of surviving records from London Magistrate Courts. Some historians cast the net further afield and have conducted case studies on the north of England or the southern port town of Portsmouth. Only Annmarie Hughes' work has given serious attention to the Scottish experience of marital violence. This thesis therefore seeks to address the dearth of research in areas of Britain outside of England by focusing on Scotland and more specifically, the Greater Glasgow region.

It has also been made clear that, given the predominance in existing works on the working-class, further research is required to elucidate the significance of class in understandings of unreasonable behaviour. In order to appreciate more fully inter-class

¹⁷⁴ Ibid., 84.

¹⁷⁵ Gertrude Himmelfarb, "In Defence of the Victorians," in *The Victorian Studies Reader*, by Kelly Boyd and Rohan McWilliam (London, 2007), 212; Jordan, "'Our Modern Code of Morals,'" 84.

differences with regards to unreasonable marital behaviour, this thesis will consider the experiences of couples from all levels of society. An inclusive class approach will enable numerous questions to be asked, for example: how different groups (such as family members, neighbours, or the police) approached intervention at different levels of society; to what extent was behaviour considered unreasonable to one class of victim considered reasonable for another to endure; were there any class-specific forms of unreasonable marital behaviour; and how did concepts of masculinity and femininity influence conceptions of unreasonable marital behaviour at different levels of society?

Furthermore, this thesis will satisfy the need for a study that gives equal attention to physical, sexual and non-physical incidents that created marital dissatisfaction and cumulatively lead to the marital breakdown. Current historiography, with its focus on acts of physical violence, fails fully to appreciate the interrelationship between different forms of unreasonable behaviour, be it verbal abuse, economic control, or physical or sexual violence. It was not just the physical abuse that led to a victim's decision to leave or brought a couple's situation to the attention of neighbours, the police, or the courts: the whole situation should therefore be given more equal attention. Importantly, the majority of unreasonable marital behaviour examined in this thesis were not criminalised and did not meet the civil legal threshold for cruelty either. Instead, they were actions that victims themselves deemed *unreasonable* in marriage.

Finally, this thesis will benefit from the analysis of these issues over a long time frame. There were numerous legal changes that affected Scottish women's rights – particularly in marriage – during the Victorian period and there were also legal changes in England that may have influenced thinking in the wider regions of Britain. A longer time period will also enable this thesis to address how certain elements changed over time and ask questions such as: what types of behaviour were considered most heinous across the period and did they vary; did behaviour acceptable at the beginning of the period become unacceptable by the end; how did the balance between community and professional interventions change across the period? In short, this thesis will innovatively recover regional understandings of marital violence in Britain during the Victorian period, will investigate the broad range of unreasonable behaviours that could result in the end of a marriage and will, throughout, seek to illuminate the class dimensions of this issue.

1.4 Sources and Methods

In order to answer these research questions, three bodies of sources were consulted to expose a range of cruel behaviours in marriage. First, the civil Court of Session (hereafter, CoS) records of divorce and separation were consulted. Second, newspaper reports of criminal court proceedings for the abuse of a spouse were studied. Three relational databases were created – a separation case database (hereafter, SepDB), a divorce case database (hereafter, DivDB), and a criminal court database (hereafter, CCDB) – to enable rigorous, quantitative analysis of this plethora of information about unreasonable marital behaviour. This section will begin by introducing these sources: who created them and why, what they contained, their advantages, and their weaknesses. The CoS records are introduced at length as they are underutilised by historians to date.¹⁷⁶ The second half of this section will then explain the development of the databases, before detailing key demographics of couples who featured in the databases, pertaining to the analytical categories of sex and class.

Two types of CoS actions were of interest to this thesis: divorces and separations. The CoS began hearing consistorial cases in the 1830s, which coincides with the beginning of the time frame of this study. However, divorce and separation had been available to Scottish subjects since 1564 when the Reformation changed the religious structure of the state and made consistorial cases a civil matter. Both actions were equally available to men and women. Unlike in England, poor law support for divorce or separation was means tested rather than being available only to those with an income below a certain amount. If costs were prohibitive then a person's parish would judge their financial situation and could choose to bring the case on their behalf. By 1901, the grounds for bringing divorce and separation had not been changed since the sixteenth century. Divorce could be granted for desertion of upwards of four years, or for adultery; a separation could also be granted for adultery, though cruelty was the more common reason for bringing such an action. Divorce enabled remarriage. A separation did not, and it could be accompanied with an aliment clause so that the husband would have to continue to pay for his wife's upkeep while they both still lived.¹⁷⁷

¹⁷⁶ At the time of submission, only Leah Leneman had published work in the field based these records, although Meagan L. Butler and Hannah Telling have both also produced doctoral theses (both at The University of Glasgow) based on the CoS records. While Dr Telling studied Scottish masculinity, marriage was the focus of Dr Butler's thesis. Furthermore, doctoral student Mairi Hamilton (also of The University of Glasgow) is currently working with these records to study violence against women in the home.

¹⁷⁷ From the Latin for nourish (*alere*), aliment is the Scots term for alimony, or maintenance payments.

Having been heard in the CoS, these cases are now managed by the National Records of Scotland in Edinburgh (hereafter, NRS). The NRS have catalogued the cases according to whether they have been extracted. As Leneman and Butler have observed, extracting the case was a significant step because it enforced the Lord Ordinary's final judgement.¹⁷⁸ While an unextracted case may have been abandoned, sometimes a final decree had been reached. Importantly, a case was not only extracted when the pursuer was successful with their case but could also occur when the defender was assoilzied. Thus, in terms of analysis, the extracted or unextracted status of the case was irrelevant. This status was important at the data collection stage though. The NRS assigns the prefix CS46 to the call numbers of all extracted cases. Where a case was unextracted, the call number's prefix relates to the Principal Clerk who originally handled the case in the CoS. The call numbers of all unextracted processes are available on the NRS online catalogue, as are the call numbers of extracted processes brought outwith the period 1850 to 1880. To locate the extracted processes brought during that uncatalogued thirty-year period, the indexes of the Court of Session were consulted. The indexes contained a register of all the extracted cases and all the information required to manually construct the correct call numbers.

The location of the parties cannot be gleaned from the NRS online catalogue. As the NRS limits archival orders to 12 per person per day, it was not possible to order all 2925 catalogued divorce cases they hold. First, the scope of the divorce research was limited to the following years: 1837-1860, 1865, 1870-1875, 1880, 1885, 1890, 1895-1900. This pattern enabled change over time to be tracked, while managing the ever-increasing number of cases from the 1880s onwards. To further limit the number of cases that needed to be physically viewed, the marriage certificates of the couples were consulted in the ScotlandsPeople genealogy centre. If the couple were married in the Greater Glasgow area, then the case would be ordered. If the couple were not married in the region, the Record of Corrected Entry (RCE) was checked to establish the locations of the parties at the time of the divorce. If the RCE indicated that either or both of the parties were residing in Glasgow when the marriage ended, then the case was ordered. The result was that 967 divorces were ordered. A further 294 divorce cases were identified, from the uncatalogued years 1850-1880, in the Court of Session Index Books. However, the addresses of the parties were also recorded in the Index Books, so only those cases where at least one party resided in Glasgow were ordered. From both the catalogued

¹⁷⁸ Leneman, *Alienated Affections*, 10; Meagan Lee Butler, "'Husbands without Wives, and Wives without Husbands': Divorce and Separation in Scotland, c. 1830-1890" (Ph.D Thesis, University of Glasgow, 2014), 18.

and uncatalogued cases across the sample years, 320 were found to involve couples who had resided in Greater Glasgow for most of their married life. Half (162 cases) of the Greater Glasgow divorce cases made mention of marital cruelty, despite the legal grounds for divorce solely being adultery and desertion. Data was collected from these 162 cases on the sex of the pursuer, occupation of the husband, and the grounds for the case, which enabled me to produce a representative sample of 50 cases for the DivDB.

The filtering process used on the divorce cases could not be applied to the separation cases, and so all 629 records were ordered. Additionally, 50 uncatalogued separation cases were discovered in the index books, of which 10 belonged to Glasgow based couples and were ordered. In total, 122 separation cases relating to Greater Glasgow based couples were identified and photographed. Separation cases that were to be included in this research were photographed straight away.

The cases relating to both divorce and separation were similar in composition (see Appendix A for photographs of exemplar documents). The pursuer's justifications for divorce or separation were detailed in the Summons. This document began by detailing the facts of relationship: when the couple had married, mention was usually made of any children of the marriage, and the addresses and occupations of both parties were given. Within the Summons was the Condescence, which laid out the allegations being made by the pursuer. Additionally, the Summons contained the Pleas in Law – a precise description of the legal remedy the pursuer requested of the court. If the defender provided answers, then these were contained in the Defences: they would reply to each of the points in the Condescence, and then enter their own Pleas in Law.

After the arguments had been laid out, the Lord Ordinary ordered the parties to provide testimony from witnesses. These testimonials, often along with the pursuer's and defender's own testimonies, were written up in the Proofs. The Lord Ordinary's rulings throughout the case were recorded in dated entries in the Interlocutor's Sheets. If the case was appealed by either party, then a Reclaiming Note would be entered and on rare occasions the Lord Ordinary's opinion on the case might be recorded here too in a Note. Intermittently, numerous other documents could be found in the files that were not systematically used in this thesis: Auditor's Report or Account of Expenses (a record of expenditure in the case); Inventory of Process (a register of the documents that were originally contained in the file); letters; marriage certificates; extracted decrees from other courts; and miscellaneous written evidence.

As Stephen Robertson has observed, “legal records seem to describe behaviour not easily uncovered in other sources”.¹⁷⁹ Marital cruelty was so often experienced without the knowledge of others. However, during divorce and separation cases this cruelty was alleged in detail and combined with witness testimony for the court to judge. For historians then, divorce and separation cases provide an elusive insight into the workings of marriages where at least one spouse behaved in a way that their partner considered unreasonable. While some of the marriages only lasted a handful of years, others spanned decades, meaning the files can allow historians to trace the progression of marital cruelty across a marriage. For Scotland at least, couples from a range of class backgrounds were drawn to the CoS (and brought their associated witness with them) to seek a solution to their marital problems. Thus, the analysis of these records will not be limited to a certain group of society, rather cross-class comparisons will be possible. Further, the lengthy legal history of civil divorce and separation in Scotland meant that the Victorian Lord Ordinaries were unique, in the British context, in their ability to provide a practical solution to marital cruelty based on extensive precedent.

There are limitations involved when using divorce and separation cases, though actions have been taken to overcome these where possible. Consistorial cases were not brought lightly (as discussed in the third section of this thesis). The cases heard by the CoS were therefore some of the most dangerous examples of marital cruelty. Although this necessarily prioritises serious examples, to the detriment of many of the everyday experiences of marital cruelty, aspects of the lower-level abuse are often captured in the cases because the cruelty was recognised as a course of behaviour and not just a one-off. Divorce and separation cases are inherently contradictory: both parties have (often opposing) desired outcomes, and memories of events are frequently unreliable. Further it would obviously be advantageous for both sides to exaggerate or downplay incidents in their accusations or defences. Subsequently, to turn these records into seamless narratives would be to distort them, as such a narrative “obscures the interpretative choices”.¹⁸⁰

While it is not the object of this thesis to provide a true and accurate account of the marriages that came before the courts – but instead to analyse attitudes towards unreasonable marital behaviour – it should be noted that this thesis adheres to the feminist principle of believing victims. By employing the virtues of ‘epistemic justice’ espoused by Miranda Fricker this thesis will give credit to the voices of victims and recognise that their legal actions caused

¹⁷⁹ Stephen (Stephen Murray) Robertson, “What’s Law Got to Do with It? Legal Records and Sexual Histories,” *Journal of the History of Sexuality* 14, no. 1 (2005): 161–62.

¹⁸⁰ *Ibid.*, 166.

them to recount experiences in a culture that did not engage fully and critically with the concept of spousal cruelty.¹⁸¹ This is not to say that in the face of wholly contradictory evidence that this evidence would be set aside. When Janet McKinnon accused her husband John Gilmour of falsely imprisoning her in Glasgow Lunatic Asylum between 1837 and 1848 it was possible to consult the digitised archival material related to the institution.¹⁸² A search of the patient registers revealed that Janet was not held in the asylum for the full decade as she claimed. Instead, she was admitted 18 June 1836 and released 29 August 1837, and then readmitted 25 June 1847 and released again 15 December 1848.¹⁸³ Ordinarily, the unreasonable behaviour that victims alleged was not traceable in the records of institutions. Thus, this thesis will start from the standpoint that the victim's accusations were at least based in truth (even if they were exaggerated in some way from legal effect) and in situations where accusations cannot be externally corroborated this will be upheld.

Another limitation of these cases is that while they record the opinions of people from across the class spectrum, those people's voices are altered by officials: the words of the pursuer are filtered through their lawyer, while the testimony of witnesses is rewritten by clerks. Unfortunately, this thesis does not benefit from the existence of surviving, detailed correspondence between pursuers or defenders and the legal agents like Begiato's (Bailey) work on eighteenth-century England does.¹⁸⁴ Ultimately though, the surviving record of these voices will be based at least loosely on the original discussant's opinions and so are the best source we have for understanding the opinions of society on unreasonable marital behaviour. Finally, the majority of case files were not completed. In 74 (60.5 per cent) separation cases the Proofs have not survived, and in 20 per cent of separation cases and 4 per cent of divorce cases the outcome of the case is unknown. Only in those three separation cases that contain a Note from the Lord Ordinary in the Reclaiming Note can the opinions of those men who judged whether these marriages were cruel be directly accessed. Despite these restraints, the records do provide ample examples for analysis. From these cases come almost 2500 incidents of

¹⁸¹ Miranda Fricker, *Epistemic Injustice: Power and the Ethics of Knowing* (Oxford, 2007), 1–7.

¹⁸² NRS, CS237/MC/21/3, Summons.

¹⁸³ Wellcome Library, 'Records of Gartnavel Royal Hospital, Glasgow, Scotland' (originals held by NHS Greater Glasgow and Clyde Archives, The Mitchell Library, Glasgow): HB13/6/1 Register of Patients, 1831–1840, available at <<https://wellcomelibrary.org/item/b21891035#c=0&m=0&s=0&cv=0&z=-0.7763%2C-0.082%2C2.5527%2C1.6405>> (accessed 2 July 2020); HB13/6/2 Register of Patients, 1841–1847, available at <<https://wellcomelibrary.org/item/b21893226#c=0&m=0&s=0&cv=0&z=-0.7867%2C-0.0827%2C2.5734%2C1.6538>> (accessed 2 July 2020); HB13/6/3 Register of Patients, 1848–1850, available at <<https://wellcomelibrary.org/item/b21895090#c=0&m=0&s=0&cv=0&z=-0.7129%2C-0.078%2C2.4258%2C1.559>> (accessed 2 July 2020).

¹⁸⁴ Joanne Bailey, "Voices in Court: Lawyers' or Litigants'?", *Historical Research* 74, no. 186 (2001): 392–408.

unreasonable marital behaviour and provide the opportunity to investigate various opinions towards cruelty from the Greater Glasgow area across the nineteenth century.

Alongside the civil court proceedings this thesis has considered criminal court proceedings. Although the Mitchell Library, Glasgow, holds records pertaining to the Glasgow Police during the Victorian period, these were not detailed enough to be useful in this survey: the logs failed to specify the relationship of the victim to the perpetrator, which made it impossible to identify cases of marital cruelty, and very little context on the incident was provided. To study the incidents of marital cruelty that were heard by Glasgow's criminal courts, the reports of criminal court proceedings – published in the *Glasgow Herald* – were consulted. These same reports of criminal court proceedings were used by Annmarie Hughes to investigate wife-beating in Scotland between 1800 and 1950.¹⁸⁵ This thesis will expand on this research by contextualising the criminal data more fully within the story of cruel marriages recovered from the civil court records.

The newspaper reports were usually very brief. The name of the perpetrator and the victim would be given, along with the date and location of the incident. Usually the husband's occupation would be stated, which enabled class analysis. Sometimes the description of the incident would be as short as “for beating his wife”.¹⁸⁶ On other occasions there may be a few more details given, such as the weapon used, or which part of the victim's body was attacked if the assault was physical.¹⁸⁷ The opinions of the newspaper reporter, the jury, or the judge might be given in the report, though this was relatively rare.

The British Newspaper Archive holds a complete digital run of the *Glasgow Herald*. Keyword searches for the terms ‘wife beating’, ‘wife assault’, and ‘husband assault’ resulted in 4281 returns. Conducting multiple searches of similar terms, while more time consuming, reduced the chance of cases being missed by the word-search algorithms.¹⁸⁸ Although these word searches will inevitably have missed some incidences of the terms, reading every copy of the *Glasgow Herald* – which became a daily in 1858 – would not have been manageable within the confines of this study. From the 4281 returns, 486 examples of inferior court cases pertaining to marital cruelty were identified. Cases were only included in the database if the outcome had been determined, be it convicted, admonished, not proven, or insane. Murder

¹⁸⁵ Annmarie Hughes, “The ‘Non-Criminal’ Class: Wife-Beating in Scotland (c. 1800-1949),” *Crime, History & Societies* 14, no. 2 (2010): 31–53.

¹⁸⁶ *Glasgow Herald*, 24th August 1897.

¹⁸⁷ *Glasgow Herald*, 9th January 1884.

¹⁸⁸ It was not uncommon to find cases involving the term ‘wife beating’, while reading a return from the search ‘wife assault’, that had not been flagged as a return on the ‘wife beating’ search itself.

trials were not included in this research because it was the objective of this thesis to study acts that were supposed to affect the victim's future behaviour. While some cases in the database were heard under summary procedure – in a lower level court, such as a Police Court or Justice of the Peace Court – without a jury present, others were cases tried in Sheriff Courts under solemn procedure, though this was not always explicitly stated in the newspaper reports and so it is impossible to know the exact numbers.

Using newspaper reports of the criminal court proceedings is the most effective way to include examples of criminal marital cruelty. Doing so will enable this thesis to contextualise the use of the criminal justice system within the broader course of a marriage. However, there are some recognised drawbacks associated with this source. Primarily, not all criminal cases involving marital cruelty that took place were reported on by the press. Given restrictions on space, editors would select certain cases to go to print, while others are lost to history. The decision-making process of the editors is not recorded. While it could be that cases were simply deemed interesting or appealing to readers, the editor may have been trying to project a larger message of justice being done (certainly, 95.27 percent of the 486 perpetrators in the CCDB were found guilty).¹⁸⁹ Further, the views presented by the newspaper reports were not necessarily representative of the wider readership. Similarly, newspaper reporters were likely better-off than the couples whose marriages they wrote about, and this class bias will have influenced how they conveyed the facts of the case.

To effectively analyse the abundance of information contained in the CoS cases and the newspaper reports of criminal court cases, three relational databases were created using Microsoft Excel. While the divorce and separation cases appeared very different from the newspaper reports of criminal court proceedings, the structure of each of the databases was similar with only minor deviations. As Figure 1.1 shows, the starting point was the Case Table. Here, the individual cases were assigned an ID. (In the criminal court cases database this table was combined with Incident Table as each case was constituted of one single incident). Data was recorded regarding numerous specifics of the cases to allow, inter alia, analysis of changes across the century; variations between cases brought by husbands compared to wives; and comparisons between religion, or varying lengths of marriages.

¹⁸⁹ Rosalind Crone, "Publishing Courtroom Drama for the Masses, 1820-1855," in *Courtrooms and the Public Sphere in Britain, 1730-1840* (Farnham, United Kingdom, 2012), 193–216; V. A. C. Gatrell, *The Hanging Tree: Execution and the English People 1770-1868* (Oxford, 1994); Phillippe Chassaigne, "Popular Representations of Crime: The Crime Broadside - A Subculture of Violence in Victorian Britain?," *Crime, Histoire & Sociétés* 3, no. 2 (1999): 23–55.

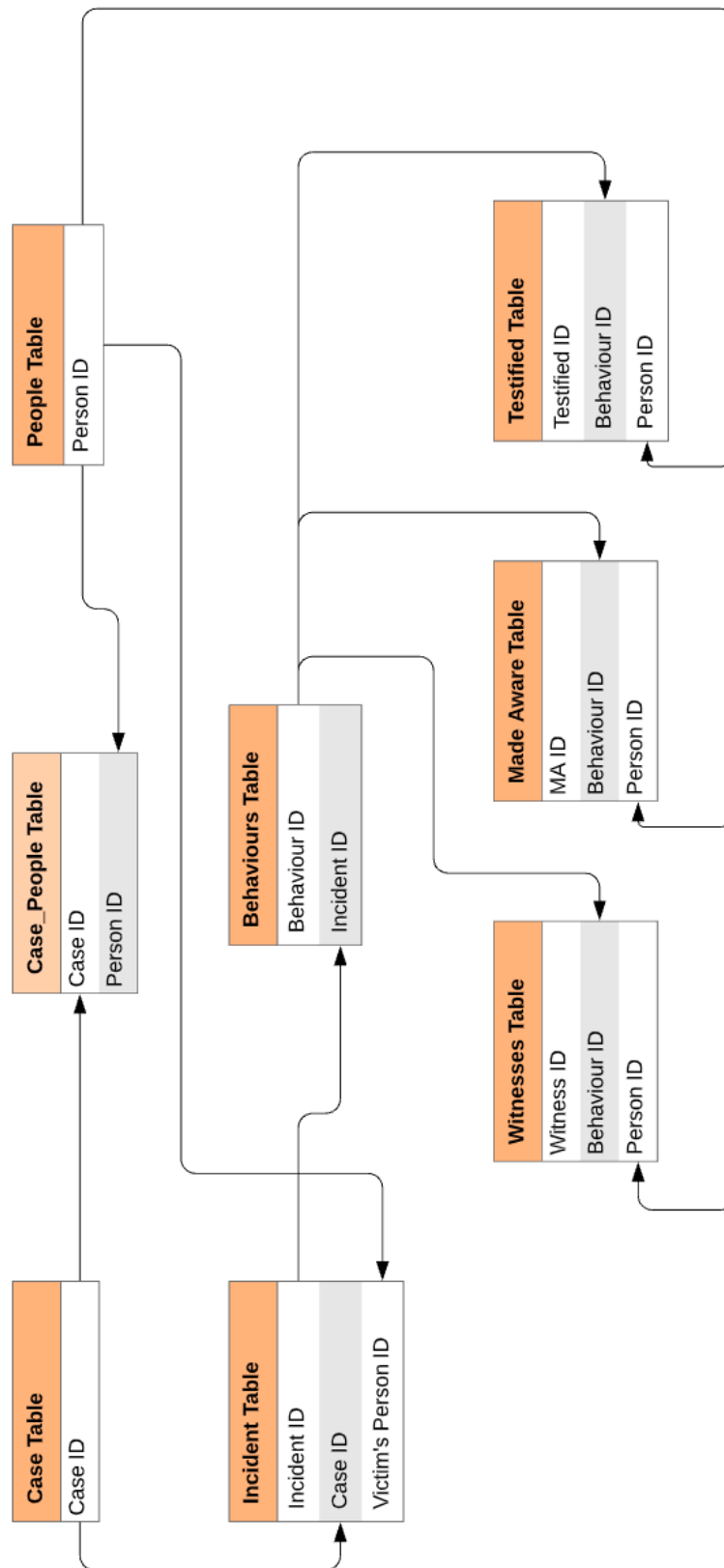


Figure 1.1 A simplified entity-relationship model of the database tables

The second key table was the People Table. In here a person's stable details were recorded: their sex and names.¹⁹⁰ A 'many to many' table – Case_People – was used to record changeable details: age, address, occupation, relationship to the parties. (In the CCDB this was called the Incident_People Table). This table was essential because, especially in the CCDB, the same person could appear in multiple cases at different times in their life. The next key table was the Incidents Table. Details specific to incidents were recorded here, for example, the victim and perpetrator's ID; the time, date, location, and detailed location; a short description was given; and Yes/No/Both answers were recorded for the questions 'were the police contacted?', and 'was either party under the influence of alcohol?'. The unreasonable behaviours that were alleged to have taken place during the incidents were recorded separately, in the Behaviours Table, because a single incident could be made up of multiple behaviours. For example, during the 1894 case of Margaret Harvie against Peter Fergus, Margaret's legal team entered the following condescence:

On the night of Thursday, 25 May 1893, the defender, who was not expected home, came home drunk about 11.30 p.m. and used violent language towards the pursuer who was in bed in the kitchen, threatening to 'do for her,' and sent the maidservant out of the kitchen. He then seized the pursuer by the throat, dragged her head over the edge of the bed, and compressed her throat until she became senseless.¹⁹¹

Within this one incident, there were three unreasonable behaviours present: 'verbal aggression' when Peter is accused of using "violent language" towards Margaret; a 'threat to life' when Peter says he'll "do for her"; and 'abuse with the body' when Peter took Margaret's throat and choked her.

The Behaviours Table simply recorded the behaviour type and the associated behaviour category. As these sources provided evidence of more than physical violence, the list of potential behaviour types was almost 190 entries long (see Appendix B). These 'types' were determined as the data was entered. The resulting terms are simplistic, short descriptions of what the pursuers, defenders, and newspaper reporters described. For example, 'abuse with body' refers to a punch or a kick, while 'late hours' related to an accusation of staying out, or returning home, later than the victim considered acceptable. To enable practical analysis of this broad range of behaviour types, each type was assigned to a specific behaviour category. These

¹⁹⁰ For the purposes of this research, in the context of Victorian Glasgow, sex was considered a stable category. The author does not believe that this would not be an appropriate description in today's society.

¹⁹¹ NRS, CS46/1894/8/24, Summons.

were: physical, sexual, emotional, psychological, verbal, economic, or any combination of these terms. The behaviour categories were assigned while cleaning the first database, the SepDB. These were not categories that can be found in the primary sources. Rather, they are the author's own interpretation of the behaviour types based on the close reading of the sources that was conducted during data entry. The categories physical, sexual, verbal and economic are all self-explanatory. A distinction was made between emotional and psychological to differentiate between behaviours intended to cause upset (emotional) or fear (psychological) without inflicting physical abuse. Finally, there were three more key tables that recorded who witnessed, was made aware of, or testified to specific behaviours. These tables only recorded the behaviours rather than the incidents because sometimes a whole incident would not be witnessed.

The SepDB consisted of 122 cases of separation, brought by couples from the Greater Glasgow region between 1837 and 1901. There were a total of 2081 incidents, based on 3020 individual behaviours. As mentioned, the DivDB is not a complete picture of all divorce cases brought during the Victorian period by Glaswegians. Instead, it is a sample of 50 cases from the selected years that involved unreasonable behaviours above and beyond the legal requirements for a divorce. There were considerably fewer incidents of unreasonable behaviour reported during divorce cases, though this is to be expected given that the legal grounds for divorce were adultery and desertion and these additional accusations would not legally contribute to the outcome. In total, 388 incidents, constituted of 568 behaviours, were recorded in the DivDB. Finally, the CCDB was based on 486 individual newspaper reports of marital cruelty. Those 486 incidents were formed of 696 behaviours. As was expected, because these cases came to light through criminal court, most of these behaviours (78.16 per cent) were physical in nature.

As well as variations in the numbers of cases brought in totality, the number of cases varied significantly across the period too. As Table 1.1 shows, in the DivDB and CCDB between 50 and 60 per cent of all the cases were heard in the 1890s alone (this table is replicated in Appendix C for reference). In the SepDB, almost 70 per cent of cases were heard during the 1880s and 1890s alone. Evidently there was considerable growth in the reporting of marital cruelty in all three mediums across the Victorian period. However, this is not to say that rates

of marital cruelty increased at this time. Criminal historians are well aware of the dark figure – those moments uncaptured by official records that will never be countable.¹⁹²

Table 1.1 Distribution of cases by decades

Decade	SepDB		DivDB		CCDB	
	No. of Cases	<i>Percentage</i>	No. of Cases	<i>Percentage</i>	No. of Cases	<i>Percentage</i>
1840s	4	3.27	0	0	6	1.23
1850s	6	4.92	0	0	31	6.38
1860s	5	4.10	2	4.00	75	15.43
1870s	15	12.30	7	14.00	28	5.76
1880s	41	33.61	11	22.00	55	11.32
1890s	44	36.07	29	58.00	267	54.94
1900s	7	5.74	1	2.00	24	4.94
Total	122		50		486	

(NB: As the Victorian period ended in 1901, the 1900s is constituted only of cases from two years; as there were no CCDB, SepDB, or DivDB cases from the period 1837-1839 the 1830s is not represented in any of the data in the thesis)

Finally, it is necessary to turn to the demographics of the couples who featured in these databases. One demographic that is conspicuous by its absence is race. The sexuality and gender identities of the couples were equally not discussed. Similarly, nationality was only very rarely mentioned, and it was not possible to track this with any level of consistency. Finally, a person's physical and mental disabilities were only reported if they were pertinent to the facts of the case. For example, it was noted that Margaret MacPherson had become deaf

¹⁹² See for example Godfrey, 'Counting and Accounting for the Decline in Non-Lethal Violence in England, Australia, and New Zealand, 1880-1920'.

due to her husband's treatment.¹⁹³ These silences cannot be overcome, but they are necessary to confront. People of colour, immigrants, differently abled people, trans people, people who were gender non-conforming, and non-heterosexual people lived in Glasgow during the Victorian period. They undoubtedly experienced spousal cruelty in similar ways to the married, hetero-sexual-presenting couples studied in this work.

In terms of sex, the three databases vary in significant ways (Figure 1.2). The divorce cases came closest to sexual equality, with 30 female pursuers (60 per cent) and 20 male pursuers (40 per cent). Separation cases were overwhelmingly brought by female pursuers: 120 female pursuers (98.5 per cent) compared with 2 male pursuers (1.5 per cent). This division was replicated in the CCDB. The victim in 472 of the incidents (97.12 per cent) was the wife, the husband was recorded as the victim just 14 times (2.88 per cent).

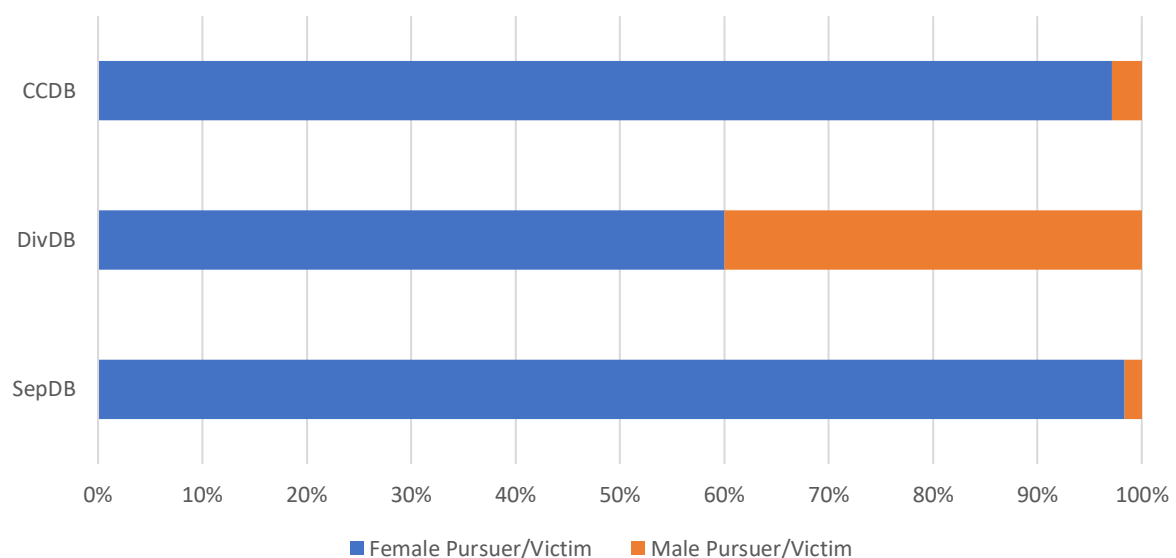


Figure 1.2 *The sex breakdown of pursuers/victims*

Where possible, the husband's occupation was recorded in each case. Where this information was not available in divorce or separation cases, census data was used. It was not possible to use census data as a substitute in the CCDB as there was insufficient information to confirm a match with census data. Using W. A. Armstrong's chapter on occupational information as a guide, all the occupations were categorised according to the level of training required and the

¹⁹³ NRS, CS46/1900/11/24, Summons.

amount of manual labour involved as per Table 1.2.¹⁹⁴ For the purposes of this thesis, the categories of Unskilled Labour, Skilled Labour, Armed Forces, and Skilled Trade would be considered working class, though certainly some of the families in the Skilled Trade category may well have been considered lower middle class by the end of the period. The Skilled Occupation and Professional Occupation categories would constitute the middle class, while the Independent Means category could be considered the upper class.

Table 1.2 Husband's occupation categories and associated descriptions

Occupation Category	Description
Independent Means	Those who did not need to work for their income
Professional Occupation	University trained professionals (e.g., doctor)
Skilled Occupation	Formal training, little/no manual labour (e.g., clerk)
Armed Forces	A member of the army or navy
Skilled Trade	Apprenticeship, manual labour (e.g., saddler)
Skilled Labour	Formal training, primarily manual labour (e.g., shop assistant)
Unskilled Labour	No formal training (e.g., labourer)

As Table 1.3 shows, the SepDB contained the most occupational diversity, with husbands featuring in all the categories except for the Armed Forces (this table is replicated in Appendix D for reference). Among the husbands in the SepDB, the Skilled Occupation category was most common with two fifths of the husbands featuring in this category. The Skilled Trade category accounted for almost a third of the husbands in the SepDB (33 husbands, 27.05 per cent). The remaining third of the husbands were accommodated primarily within the Skilled Labour and Unskilled Labour categories, with a minority of husbands featuring in the Professional Occupation and Independent Means categories.

Three occupation categories dominated almost equally in the DivDB: Skilled Labour, Skilled Trade, and Skilled Occupation. 86 per cent of the cases (43 husbands) were contained

¹⁹⁴ W. A. Armstrong, "The Use of Information about Occupation," in *Nineteenth-Century Society: Essays in the Use of Quantitative Methods for the Study of Social Data*, ed. E. A. Wrigley (Cambridge, 1972), 191–310.

within these three categories. The Unskilled Labour category made up a further 8 per cent (4 husbands), while the Professional Occupation category accounted for a further two husbands (4 per cent). Finally, in one case (2 per cent) the husband's occupation could not be ascertained. Notably, none of the cases in this sample involved parties of Independent Means.

Table 1.3 Distribution of cases by husband's occupation category

Occupation Category	SepDB		DivDB		CCDB	
	No. of Cases	<i>Percentage</i>	No. of Cases	<i>Percentage</i>	No. of Cases	<i>Percentage</i>
Independent Means	7	5.74	0	0.00	0	0.00
Professional Occupation	7	5.74	2	4.00	0	0.00
Skilled Occupation	51	41.80	14	28.00	4	0.82
Armed Forces	0	0.00	0	0.00	1	0.21
Skilled Trade	33	27.05	15	30.00	26	5.5
Skilled Labour	14	11.48	14	28.00	50	10.29
Unskilled Labour	10	8.20	4	8.00	179	36.83
Unknown	0	0.00	1	2.00	226	46.5
Total	122		50		486	

The occupational figures for the CCDB were the most homogenous. It should be noted that the occupation could not be discerned for almost half of the husbands (226 husbands, 46.5 per cent). Beyond this figure, the Unskilled Labour category was the largest with 179 husbands (36.83 per cent). There were then 50 husbands in the Skilled Labour category (10.29 per cent), 1 husband in the Armed Forces (0.21 per cent), and 26 husbands in the Skilled Trade category

(5.5 per cent). Just four husbands (0.82 per cent) were from the Skilled Occupation category. Thus, where the occupation was known, 98.46 per cent of the husbands fell into categories that would be considered working-class.

By transforming the archival records of the CoS and Glasgow's criminal courts into databases, the information they contain is made countable. This will make the data amenable to quantitative analysis, which in turn is necessary to address the key research themes of this thesis: what behaviours, beyond physical violence, were considered marital cruelty?; how were beliefs regarding marital cruelty altered by the class of the couple?; and how did attitudes to marital cruelty change over time?

1.5 Thesis Structure

To tackle these research questions appropriately this thesis consists of three sections: long-term solutions, behaviours, and coping mechanisms. This structure deliberately mirrors the lived experiences of victims of marital cruelty, matching the common cycles reflected in Figure 1.3, though it follows an unnatural chronology. To aid the reader in understanding the legal landscape in which these marriages existed, the first section will provide a study of the long-term solutions to unreasonable marital behaviour offered by the CoS: divorce and separation.

The second section will focus on the behaviours themselves: what constituted unreasonable behaviour in a marriage? Chapter Three will address forms of unreasonable marital behaviour that were physical in nature. As well as considering behaviours that resulted in visible physical injury, this chapter will also consider sexual cruelty. Chapter Four will explore the variety of forms emotional and psychological cruelty could take. This chapter is split across four themes – romance and domesticity, children, alcohol, and controlling behaviours – to reflect the widespread nature of non-physical harm. Chapter Five will examine the economic cruelty that victims reported across the databases. It will convey how nineteenth-century society's gender roles contributed to the suffering of husbands and wives. Chapter Six will then discuss the verbal behaviours that were considered unreasonable.

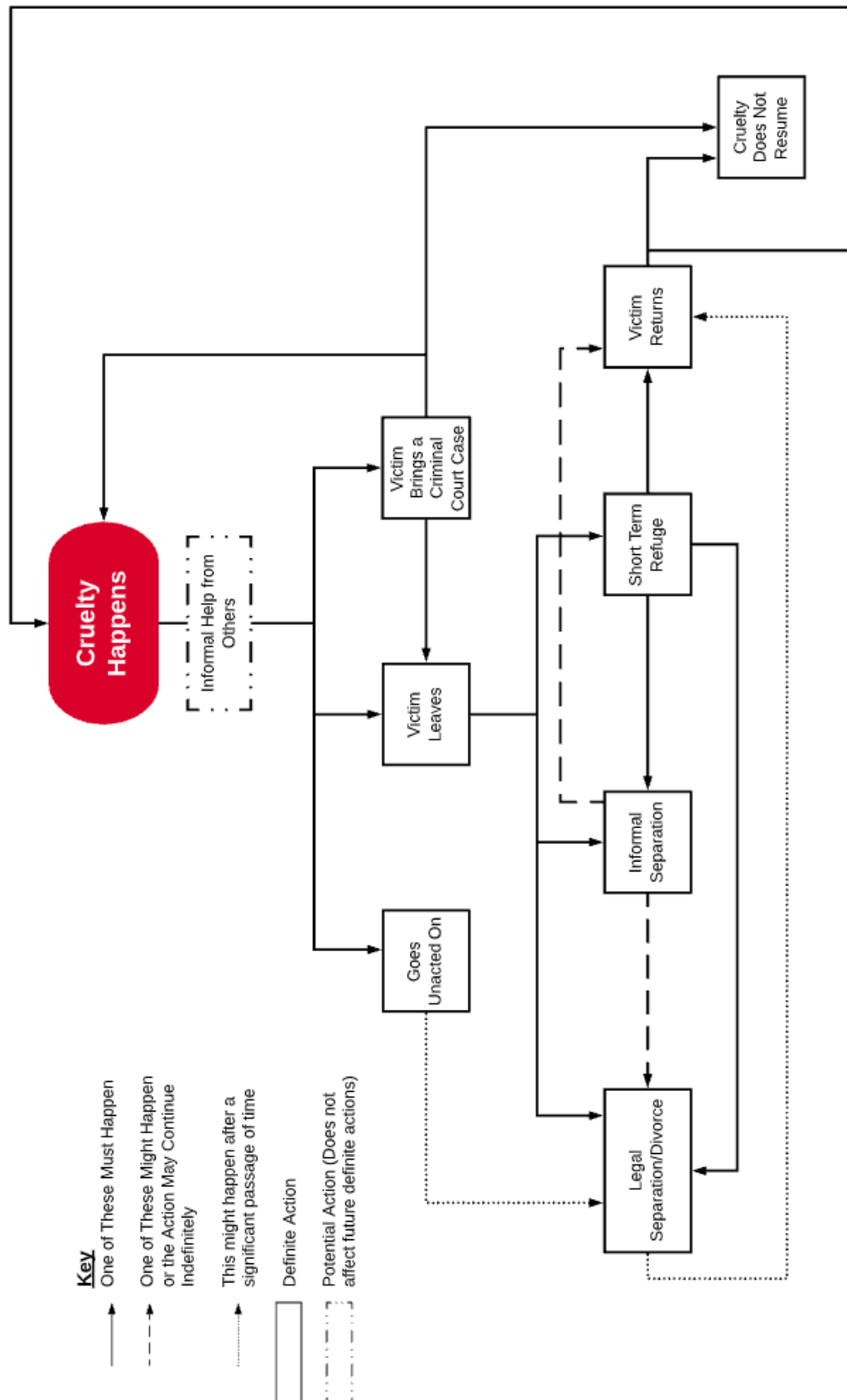


Figure 1.3 Steps that could occur after an incident of marital cruelty

Given the dearth of research on non-physical cruelty in marriage, this thesis considers it appropriate to provide the lengthy, detailed introductions to these behaviours that individual chapters allow; however, it is also important to consider the trajectory of a cruel marriage. Thus, Chapter Seven will reconstruct the lived experience of victims of marital cruelty: the ‘system of maltreatment’. Using the marriage of Isabella Barr and John Bell as a case study, this chapter will guide the reader through common themes with the intention of painting a picture of what a cruel marriage looked like. This will consequently introduce the reader to the themes of the remaining sections of the thesis: what could be done to help people married to cruel spouses?

The third section – Coping with Cruelty – will address the initial responses to cruelty. Chapter Eight will begin by demonstrating the informal methods of help that could be provided voluntarily by, among others, neighbours, family, friends, employees, and officials who were not formally charged with challenging marital cruelty, such as doctors. This chapter is split into four sections to reflect the four forms that informal help might take: presence, intervention, refuge, and relief. Chapter Nine will build on this work by turning to the police and the criminal courts, where victims of marital cruelty could find short-term legal solutions to their situation.

Part I: Solutions

Chapter 2 Divorces and Legal Separations

This chapter will explore the longer-term solutions that had the potential to be more definitive: the civil legal actions of separation and divorce. First, the legal requirements of, and opportunities provided by, civil cases will be detailed. Then, the act of bringing a case at the Court of Session (CoS) will be considered, figuratively and literally, from the victim's point of view. The intentions of pursuers embarking of CoS cases will be considered in light of the fact not all pursuers completed the cases they raised at the CoS, and when a case was seen through to completion, a small minority of divorces and around a fifth of separations resulted in unsuccessful outcomes for the pursuer. Then, the appeals process will be explored before finally considering the different potential futures for pursuers who successfully navigated a divorce or separation proceeding. Together these enquiries will help to explain why a small number of victims chose to seek civil, life-long solutions to escape the cruelty they faced.

2.1 Introduction to the Court Processes: From the Legal Side

In 1563, as a result of the Protestant Revolution, Scotland broke with Canon law and introduced divorce and separation under common law. This move distinguished Scotland from the rest of Britain, where the civil dissolution of marriage was only possible through an act of Parliament, and ecclesiastical options were limited in scope and further so for women. This section will discuss the legal workings of these two actions and will pay particular attention to the differences between the two actions and their equivalents in England and Wales.

In Scotland, a legal separation was available to husbands and wives on the grounds of cruelty or adultery. While a victim was entitled to a divorce on the grounds of adultery, this lesser remedy had “the advantage of permitting decree for aliment”.¹ For some wives, aliment – the Scots terms for maintenance payments – was an attractive benefit when weighed against the cost of forgoing remarriage. Just six of the 122 cases of separation in the separations database (hereafter, SepDB) were brought on the grounds of adultery and involved no acts of explicit physical cruelty or threats thereof. As Table 2.1 shows, the six pursuers were all women in their forties or fifties who brought cases after between 14 and 33 years of marriage. Further,

¹ Mackay, *Manual of Practice in the Court of Session*, 491.

in five out of the six cases, the women had living children. For these women, the entitlement to aliment likely influenced their decision to sue for separation rather than divorce. Aliment was awarded to wives after a separation case, regardless of whether they were the pursuer or defender. How much a wife was entitled to, and how practically useful such an income was will be discussed later. However, it is important to note now that while a separation meant the couple remained legally married, it came with the benefit of an income for the wife, and divorce provided the opposite situation.

Table 2.1 *Characteristic of separation cases brought on the grounds of adultery*

Case ID	Pursuer's Age	Year Proceedings Began	Number of Live Births	Number of Surviving Children	Sex of Pursuer	Length of Marriage (Years)
C014	41	1895	6	6	Female	21
C021	44	1900	8	5	Female	23
C027	52	1896	0	0	Female	14
C043	40	1884	2	2	Female	16
C049	52	1897	5	5	Female	30
C105	54	1897	8	8	Female	33

Mackay's 1893 edition of *Manual of Practice in the Court of Session* details thoroughly the complexities involved in defining cruelty sufficient to warrant an action of separation. Physical violence or threats of such that would cause injury to "life, limb or health" were said to "certainly constitute cruelty".² However, ascertaining whether other forms of unreasonable behaviours were cruelty was more subjective. Mackay's survey of case law established that if a husband was habitually intoxicated and while drunk acted in such a way "as puts his wife in fear of personal injury", this too would constitute cruelty.³ What constituted this threatening behaviour was not explored though. Even more ambiguous was "harsh treatment short of injury

² Ibid., 492.

³ Ibid.

to the person, of the kind commonly known as refined cruelty”.⁴ In 120 of the 122 separations and 45 of the 50 divorces, there was at least one mention of behaviours that would be considered in the category of “refined cruelty”. Mackay went on to cite the 1844 case of Elizabeth Russell against Duncan Campbell Paterson. This case, which was included in the SepDB and discussed in Chapters Three and Six, cited no incidents that amounted to physical injury, or threat thereof, in any way. The case was entirely based on emotional and economic abuses. Mackay said that the behaviour alleged in the Russell against Patterson case “probably amounted to the maximum of cruelty possible without affording sufficient ground for a separation”.⁵

Mackay also touched on the gender imbalance in applications for legal separations. While the action was a legal right for both men and women in Scotland, prejudices regarding feminine weakness and masculine strength, coupled with the requirement for physical cruelty or threats thereof, imposed a barrier on men who sought this resolution. Mackay explicitly stated that, “it will be rarely that a husband can prove the requisite cruelty”.⁶ To propagate the view that women are inherently less violent than men would be essentialist and dangerous. It is true that just two of the 122 SepDB cases were raised by men, but in the divorce database (hereafter, DivDB), 40 per cent of cases were brought by husbands who also cited incidences of cruelty. Given the opinion espoused by Mackay, this is a considerable number. It is conceivable that socialised beliefs about the weakness of women and the physical nature of marital cruelty prevented husbands from seeking separations to remedy their cruel marriages as wives did. Perhaps when husbands could combine their complaints with a more significant unreasonable marital behaviour – adultery or desertion – during a divorce case it became more acceptable and desirable to reveal the additional unreasonable behaviours.

A divorce – the complete dissolution of a marriage – was also available to Scots who had been wronged by their spouse in specific ways: adultery or malicious desertion. Unlike a separation, where the pursuer presented a pattern of behaviour, a divorce could be granted after just one instance of adultery or as soon as the threshold for desertion had been met.⁷ These marital crimes had the potential to interrupt progeny and so warranted superior intervention. While the outcomes differed, this same distinction between marital crimes that affected hereditary lines and marital crimes that only affected the immediate couple was made in

⁴ Ibid.

⁵ Ibid., 492.

⁶ Ibid., 491.

⁷ Ibid., 475.

English and Welsh ecclesiastical and civil law too. The term adultery applied to any sexual intercourse involving a married person and a person who was not their spouse. Under Scots law, desertion was established when the defender “desertis fra uthers companie without ane reasonable cause alleged or produced before a judge, and remains in their malicious obstinacie be the space of four yeires, and in the meane time refusis all privie admonitions... for dew adherence” (deserts from others’ company without one reasonable cause alleged or produced before a judge, and remains in their malicious obstinance be the space of four years, and in the meantime refuses all private admonitions ... for due adherence).⁸ Adultery was a slightly more commonly alleged marital crime, with two-thirds of cases in the DivDB citing adultery as the primary plea in law and one third alleging desertion.⁹ There were no legally defined benefits for the inclusion of evidence of cruelty under Scots law, unlike in England and Wales where wives had to prove cruelty alongside adultery to warrant a divorce after 1857. Despite this fact, at least half of the divorces brought by couples from the Greater Glasgow region during the Victorian period included accusations of unreasonable behaviours (in addition to adultery or desertion).

2.2 Introduction to the Court Processes: From the Pursuer’s Side

British subjects, domiciled in Scotland, had the right to petition for an act of separation and aliment, or divorce. This section will try to understand how a person came to do this in practice. The surviving Court of Session documents leave few hints that help explain how pursuers came to bring their cases. Who, or what, guided them to seek legal advice to remedy their situation? Jane Grieve’s 1897 Summons noted that she had requested her agent raise an action to force her husband to aliment her.¹⁰ Annie Stewart’s Summons included the fact that she had asked her family law agent to write to her husband and remonstrate with him on her behalf.¹¹ Annie Green reported that her mother-in-law “advised [her] to seek a separation, telling the pursuer she considered that her life was intolerable”.¹² Nevertheless, to provide a thorough picture of how ordinary Glaswegians engaged with the legal system during the Victorian period is

⁸ Mackay, 488. Translated by the author.

⁹ The DivDB sample was based on a survey of 247 divorces from the greater Glasgow area, the in this group was 147:100, adultery:desertion.

¹⁰ National Records of Scotland, Edinburgh (hereafter, NRS), CS46/1897/11/105, Summons.

¹¹ NRS, CS46/1896/1/71, Summons.

¹² NRS, CS46/1874/7/73, Summons.

probably a question that can only be answered by lengthy searches in the private archives of Scotland's oldest law firms.

A survey of the *Glasgow Herald* has revealed a correlation that may provide one piece of the puzzle. In the 1880s the *Glasgow Herald* began to report on the activities of the Court of Session. Through these reports, readers were made more aware of the legal options available to them, including the consistorial processes of divorce, separation, aliment, and adherence. At the same time, there was a significant increase in the number of cases of separation and divorce heard each year in Glasgow (Figure 2.1). When the London Divorce Court opened in 1858, A. J. Hammerton and Lisa Surridge observed a significant change in the press reporting of marital cruelty, and Surridge argued, "these newspaper accounts of divorce cases brought unprecedented publicity to marital conflict".¹³ Arguably, the reports of the Court of Session proceedings made victims more informed about their right to live separately from a cruel spouse and contributed to an increase in the number of applications.¹⁴

The cost of a consistorial case varied significantly. While most cases were around £25-£50, a small proportion were in the region of £60-£90 and some outliers cost upwards of £100. If the pursuer was successful, then all the costs were paid by the defender, where the defender was the husband. If the unsuccessful defender was the wife, then the costs were likely to be covered by the state.¹⁵ In Scotland a pauper was also able to bring legal proceedings through their parish. These cases were classified with the prefix 'poor'. Rather than an arbitrary income limit, as was the case in England and Wales, victims were judged on a case by case basis to establish whether or not they were in need.¹⁶ Furthermore, it does not appear that Scottish lawyers incurred the same costs or delays to their payment as they did in England and Wales.¹⁷ Katherine Bradley has found the *in forma pauperis* "procedure was infrequently used".¹⁸ However, poor cases accounted for 14 and 14.75 per cent of divorces and separations in this study, respectively. These different legal procedures north and south of the border, as well as the fact that for the state it was undoubtedly preferable that husbands and fathers supported their wives and children, likely account for the higher rate of Scottish cases.

¹³ Hammerton, *Cruelty and Companionship*, 117; Lisa A. Surridge, *Bleak Houses: Marital Violence in Victorian Fiction* (Athens, 2005), 134.

¹⁴ Thank you to Professor Louise Jackson for this suggestion.

¹⁵ Leah Leneman, "'Disregarding the Matrimonial Vows': Divorce in Eighteenth and Early Nineteenth-Century Scotland," *Journal of Social History* 30, no. 2 (Winter 1996): 212.

¹⁶ Savage, "They Would If They Could," 176.

¹⁷ Katherine Bradley, *Lawyers for the Poor: Legal Advice, Voluntary Action and Citizenship in England, 1890-1990* (Manchester, 2019), 18.

¹⁸ *Ibid.*

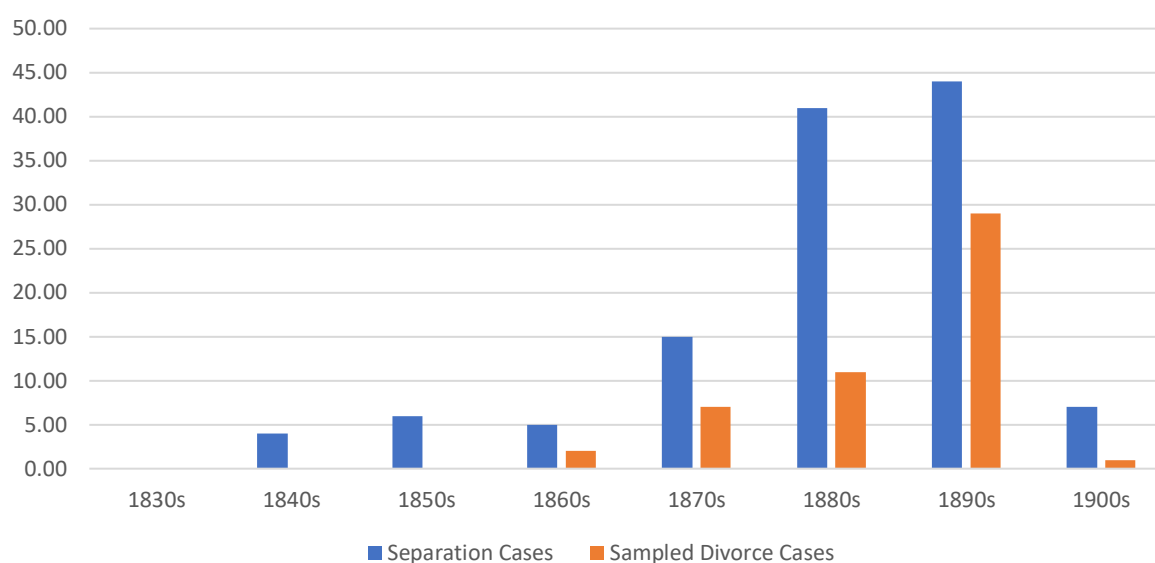


Figure 2.1 *Number of separation and divorce cases involving couples from the Greater Glasgow area brought during the Victorian period, by decade*

Administrators working for the parish would have been aware that they could civilly sue the husband and order him to aliment his dependents. They would also have known that an aliment case on the grounds of cruelty was made more robust when combined with a separation case.¹⁹ Securing a poor victim a divorce would also have been beneficial to the parish. If the action were for adultery it would allow both parties to remarry and could reduce the potential for illegitimate children; if the action were for desertion then it could reduce the number of single headed households by enabling the spouse to remarry. While the SepDB and DivDB data only contained poor cases brought from the 1880s onwards, it was legally possible earlier in the century too.²⁰ Why the parishes in Glasgow and the surrounding area never chose to support a pauper's separation or divorce case until 1880 was not discernible during this study, but could perhaps be answered by an investigation of surviving parish minute books.

After learning of their *right* to bring a case and securing the means to do so, a victim then had to *choose* to bring the case. While the process of raising a case could be completed within a short number of days, it was no simple feat. A lawyer had to be sourced, and the

¹⁹ Mackay, *Manual of Practice in the Court of Session*, 494–95.

²⁰ During the survey of the NRS indexes, a poor case from as early as 1855 was recorded but the divorce case did not involve a couple from the Greater Glasgow area. (NRS, CS46/1855/10/4).

Pursuer would have to recount the numerous incidents of cruelty that had led them to feel their marriage was irreparable. After the Defender had given their answers to the Summons there might be a review of the Summons, or the process would move forward and the proofs would be taken. The Pursuer and Defender would have to provide witnesses to confirm the accusations they had made or denied. The Lord Ordinary would then determine the outcome. The whole process took a number of months and there were no guarantees.

To bring a case of divorce or separation also meant pursuers would have to expose to public gaze the behaviours that had taken place within their marriage, behaviours that were increasingly conceptualised as ‘shameful’ during the nineteenth century.²¹ As mentioned above, by the 1880s, a victim was not only relating their experiences to their lawyer and the other legal figures in the courtroom. The pursuer’s biographical information and the fact they were bringing a case was also being published in newspapers.²² As with the decision to criminally prosecute, the decision to bring a civil suit was not taken lightly. While they were made rarely – and never in divorce cases – the statements of some wives imply that, despite bringing the case, they remained troubled by what others would think of them. In four separation cases, female pursuers vocalised the shame they suffered because their husband’s behaviour had been revealed. Elizabeth Cardy and Agnes Paton both reported that they had stayed with their abusive spouse to try to hide his unreasonable behaviour from others. Elizabeth explained she had been “desirous to avoid public scandal” and so had “endured the misconduct of the defender, and continued to reside with him until he deserted her”.²³ While Agnes told of how she:

bore with the defender’s habits and conduct for some time and endeavoured as much as possible to conceal from their friends and acquaintances the cruel treatment which she received at the hands of the defender.²⁴

The final condescendence in Helen Ward’s 1886 Summons similarly noted that she had been “anxious to avoid legal proceedings”.²⁵ Finally, Jeannie Millar’s statement, while it did not explicitly address her shame, implied she was hesitant to seek help from others with her husband’s behaviour. In the course of her Summons, it was noted that Jeannie had “done

²¹ Tomes, “A ‘Torrent of Abuse,’” 341.

²² In the *Glasgow Herald*, at least, the details of the case were usually described as “too lewd” etc. to be published and so the public were only notified for example that Mrs Elizabeth Black or Brown, of 123 George Street, Glasgow was bringing a case of separation and aliment against her husband Mr Thomas Brown, a doctor residing at 14 Buchanan Street, Glasgow.

²³ NRS, CS46/1888/1/52, Summons.

²⁴ NRS, CS238/P/10/42, Summons.

²⁵ NRS, CS46/1886/7/61, Summons.

everything in her power to try to change her husband's attitudes to her but without effect".²⁶ It was not reported that Jeannie had ever sought the help of the police with her marital problems, nor any other friends or family members. Her claim, therefore, signalled her reluctance to divulge the details her husband's behaviour in the public setting of the CoS. Jeannie's claim also alluded to the gendered expectation that wives were meant to be the moralising figure in the home: she was a 'good' woman, lumbered with a 'bad' man.²⁷

This behaviour, though limited in the evidence, is unsurprising. Elizabeth Foyster has argued that women who sought legal intervention in their cruel marriages "were eager to demonstrate that they had conformed to their ideal gender roles, which emphasized patience and obedience".²⁸ Making the court aware of the shame they felt about their circumstances helped wives portray themselves as victims of cruel, irreparable husbands, who were worthy of the court's help. As well as a desire to be seen in a positive light by the courts, pursuers also had to consider the public gaze. Annmarie Hughes' qualitative survey of Scottish newspapers' opinions on marital cruelty did not portray them as entirely sympathetic to victims of martial cruelty. Instead, the dominant opinion appears to have been summarised in an anonymous writer's response to Frances Power Cobbe's 'Wife Torture in England': "bad wives trouble many good men".²⁹

To bring a case of separation or divorce, the victim had to travel to the Court of Session in Edinburgh. For some, this would have been a journey of around 50 miles by carriage or cart. Others might have made use of the passenger train that carried people between the Scottish capital and the 'second city of empire' from 1842.³⁰ Upon arriving in Edinburgh, pursuers, defenders, witnesses and lawyers would have made their way to High Street on the Royal Mile. Amongst the imposing architecture of civic power – St Giles Church (now cathedral), the County Hall, the Royal Exchange, the Mercat Cross, the Police Chambers – was Parliament Square. Here stood Parliament House: home to the Supreme Courts of Scotland, this building contained the Court of Session. In an 1879 guide to Edinburgh, Robert Louis Stevenson gave the following description of Parliament Hall (Figure 2.2), the heart of the Court of Session:

²⁶ NRS, CS243/1452, Summons.

²⁷ Eleanor Gordon and Gwyneth Nair, "The Myth of the Victorian Patriarchal Family," *The History of the Family* 7, no. 1 (January 2002): 125–26.

²⁸ Foyster, *Marital Violence*, 2005, 84–85.

²⁹ Hughes, "The 'Non-Criminal' Class," December 1, 2010, 43.

³⁰ R. V. J. Butt, *The Directory of Railway Stations: Details Every Public and Private Passenger Station, Halt, Platform and Stopping Place Past and Present* (Somerset, 1995), 103. In 1877 defender John Currie missed the morning train to Edinburgh, where he was scheduled to give testimony in the separation case his wife Margaret Cowan had brought against him. The case was adjourned to later in the day to give him time to arrive. (NRS, CS243/1144, Proofs).

A pair of swing doors gives admittance to a hall with a carved roof, hung with legal portraits, adorned with legal statuary, lighted by windows of painted glass, and warmed by three vast fires.³¹

Advocates, writers, and Lord Ordinaries would “promenade” in the 123-foot long hall for hours networking and gossiping, waiting to undertake their role.³² The impressive nature of the building would have been matched by the Lord Ordinaries inside (Figure 2.3). Both would likely have been far from the daily experiences of many of those who came to make their case.



Figure 2.2 *Parliament Hall, Parliament House in Edinburgh, Scotland (19th era/Alamy Stock Photo)*

³¹ Robert Louis Stevenson, *Edinburgh: Picturesque Notes* (London, 1879).

³² A. A. Grainger Stewart, *Portraits in the Hall of Parliament House in Edinburgh* (Edinburgh, 1907), xxiv.

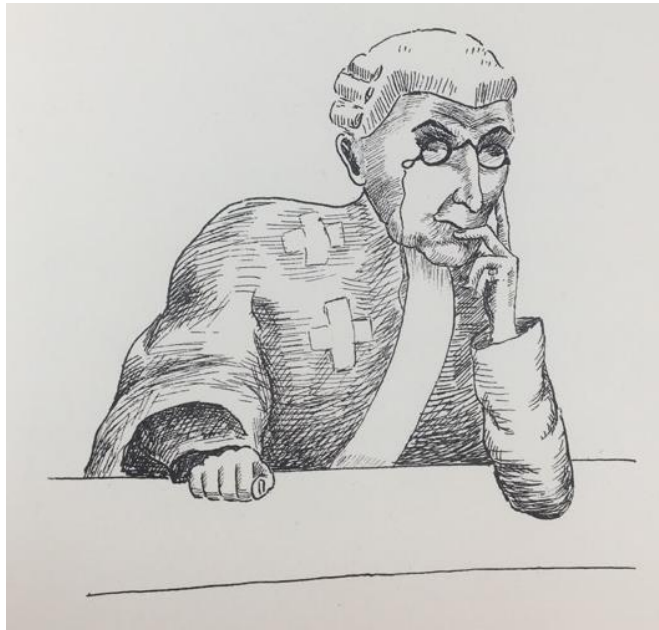


Figure 2.3 *Untitled caricature of a Lord Ordinary taken from C. E. Ritchie, The New Parliament House Book (Edinburgh, 1890), n. pag.*

2.3 Starting a Divorce or Separation Case

Separation and divorce cases both began with a Summons. The pursuer's lawyer would produce this document and they all followed the same format. The Summons began with an opening section that highlighted the particulars of the case. In separation cases, the standard accusation would look like this:

the Lord of our Council and Session Ought and Should find it proven that the defender has been guilty of cruelly maltreating the pursuer, his wife, and therefore, find that the pursuer has full liberty and freedom to live separate from the defender, her husband; and the defender Ought and Should be Decerned and Ordained, by decree of our said Lords, to separate himself from the pursuer *a mensa et thoro*, in all time coming; and the defender Ought and Should be Decerned and Ordained, by decree foresaid, to make payment to the pursuer of the sum of £150 sterling yearly of aliment, payable in advance, commencing at the 15 December 1884 for the period from that date till the

term of Whitsunday 1885, and thereafter in two equal instalments, at the terms of Whitsunday and Martinmas in each year.³³

Because a wife was entitled to aliment in a separation case – regardless of whether she was the wrong-doer or the wronged party – the amount of aliment requested or offered was stated in the standard opening. The opening lines of a Summons for divorce were almost exactly the same, except missing the aliment component. After this standard introductory section, there was the Condescendence where the evidence of wrongdoing was presented. The document then concluded with the Pleas-in-Law, which highlighted how the pursuer was entitled to a decree of divorce or of separation and aliment. The Summons was delivered to the defender and the Court of Session, and then a Lord Ordinary would be assigned to the case. The assigned Lord Ordinary would order the defender to provide defences to the allegations. After the defender had delivered their responses to the condescendence, the Lord Ordinary would officially close the record. The Lord Ordinary would then order proofs to be taken. Even if an action were undefended, the Lord Ordinary would still have to order proofs to be taken because the facts of the case had to be substantiated by people beyond the couple themselves.³⁴ The Lord Ordinary would then hear testimony. After hearing the proofs, the Lord Ordinary would make their decision on the case. At any of these stages, the pursuer might choose to withdraw their case. There were 25 unfinished separations and two unfinished divorces among the SepDB and DivDB cases.

Surviving records make clear that two of the 27 unfinished cases were halted at the request of the pursuer themselves. Alexandrina Whittet's separation case was discharged in 1900 when she and her husband, plumber Adam McLaren, informed the court that they had resumed cohabitation.³⁵ Mary McElmail and John Lundie's 1879 separation case was discharged after the couple began negotiations, seemingly for a joint minute of agreement.³⁶ The 1859 case of Agnes Paton against landed proprietor Alexander Smith ended in 1861 after Alexander succumbed to pneumonia made worse by his delirium tremens.³⁷ Mary Donald's separation case against fruit merchant James Strang appears to have been side-lined by James'

³³ NRS, CS46/1885/12/50, Summons.

³⁴ Mackay, *Manual of Practice in the Court of Session*, 493.

³⁵ NRS, CS243/5149, Interlocutor's Sheets.

³⁶ NRS, CS243/3825, Interlocutor's Sheets. NB: a joint minute of agreement, or joint minute, is a legally binding agreement made between parties and their solicitors that does not involve formal court proceedings. Ten cases were described as being successful by joint minute. As will be discussed below, a case could also be assolizied by joint minute.

³⁷ NRS, CS238/P/10/42, IS; ScotlandsPeople, Death Certificate for Alexander Bartlemore Smith, 15 January 1861, *Statutory Registers Death 587/17* (Accessed: 22 April 2020).

bankruptcy in 1863.³⁸ William Ledley abandoned his divorce action after his wife successfully argued that he was not a domiciled Scot.³⁹ Nothing in the surviving files can explain, or even hint, at why the remaining 22 cases of divorce and separation went unfinished.

One of these unknown cases was the 1879 separation case of Elizabeth Revie against John Aitken. Elizabeth had been pregnant and 18 years old when she left John's house and returned to her mother's home. John was 35 years old with three children from a previous marriage living with him. In her Summons, Elizabeth described John as a jealous and violent man. She told of how he had physically attacked her on multiple occasions, despite knowing she was pregnant. She explained that he would lock the doors deliberately to prevent neighbours from protecting her. In October 1879, Elizabeth gave birth to the child she had been pregnant with on those occasions when John had assaulted her: Robert Revie Aitken. She gave birth in her mother's home, and she registered the birth. By the time of the 1881 census Elizabeth was back living with her John, their son Robert and another son who was less than a month old. In 1891 the census recorded that the family had grown again to include another son aged four and a daughter aged six, and still Elizabeth remained. Beyond 1891 there is no trace of Elizabeth Revie or Aitken on any censuses or amongst death records.

For posterity, Elizabeth's story, like her case, was unfinished. We cannot know why Elizabeth was convinced to reconcile with John. We cannot know what happened to their relationship in the years following, whether his cruel behaviour resumed at a level that Elizabeth considered manageable, or whether they lived peacefully together. It is not within the remit of this project to trace all of these unrecorded endings, but it is necessary to take the time to respect them. These victims started legal proceedings to challenge the cruelty they faced in their marriage and for any number of unknown reasons they never saw them through. Divorces and legal separations could provide lasting freedom from an abusive spouse because they enabled the victim to live out the remainder of their lives separately. For the pursuers in these 27 unfinished cases, perhaps the act of raising a civil action alone was sufficient to reform the defender's behaviour. However, it is equally possible that their behaviour afterwards was merely reduced to a more manageable level.

2.4 Unsuccessful Court Cases

³⁸ NRS, CS243/1763, Interlocutor's Sheets.

³⁹ NRS, CS46/1885/2/48, Summons.

Of the 122 separation cases and 50 sampled divorce cases – brought by couples from the Greater Glasgow region during the Victorian period – 18 of the separations, and one of the divorces, resulted in the defender being assoilzied. The unsuccessful divorce case was that of Robert Young *ag.* Mary Ann Findlay (discussed in Chapter Four, section 2.1). Robert had tried to prove Mary Ann had been guilty of adultery on the grounds that she had become pregnant and later miscarried while they were living separately. Lord Kincairney believed Mary Ann's explanation that her swollen stomach was caused by a womb disorder and ruled that Robert had not proven his averments.⁴⁰

Explaining why the separation cases were unsuccessful is less straightforward. As Figure 2.4 shows, the unsuccessful separation cases were representative of the full sample of cases in the SepDB in terms of the husband's occupation. As there was only one unsuccessful divorce, this comparison was not possible. In twelve of the assoilzied separation cases, the defenders were assoilzied at the behest of the pursuer. In eight cases the defender was assoilzied by a joint minute. In the remaining four cases they were assoilzied simply because the pursuer decided not to continue further with the case. A joint minute of agreement was a formal statement agreed to by both parties jointly. In separation cases, the Lord Ordinary could find for the pursuer or the defender on the basis of the parties' joint agreement, but this was not possible in divorce cases because of rules that prevented collusion. Why the remaining seven cases were assoilzied could not be determined.

One noticeable feature of all nineteen of the assoilzied separation and divorce cases was that they were brought in the final two decades of the period. However, as some of the cases mentioned above (with unknown outcomes) could also have been assoilzied, it cannot be argued that there was a significant change over time. It does seem plausible that the rising publicity of civil cases contributed to more people trying to resolve marriages that they considered to be cruel in this way. However, while these victims recognised that non-physical behaviours were cruelty, they were interacting with courts that still employed a definition that seemed outdated compared to theirs, one that required acts of physical violence or threats thereof.

⁴⁰ NRS, CS46/1900/5/81, Summons; NRS, CS46/1900/5/81, Defences; NRS, CS46/1900/5/81, Interlocutor's Sheets.

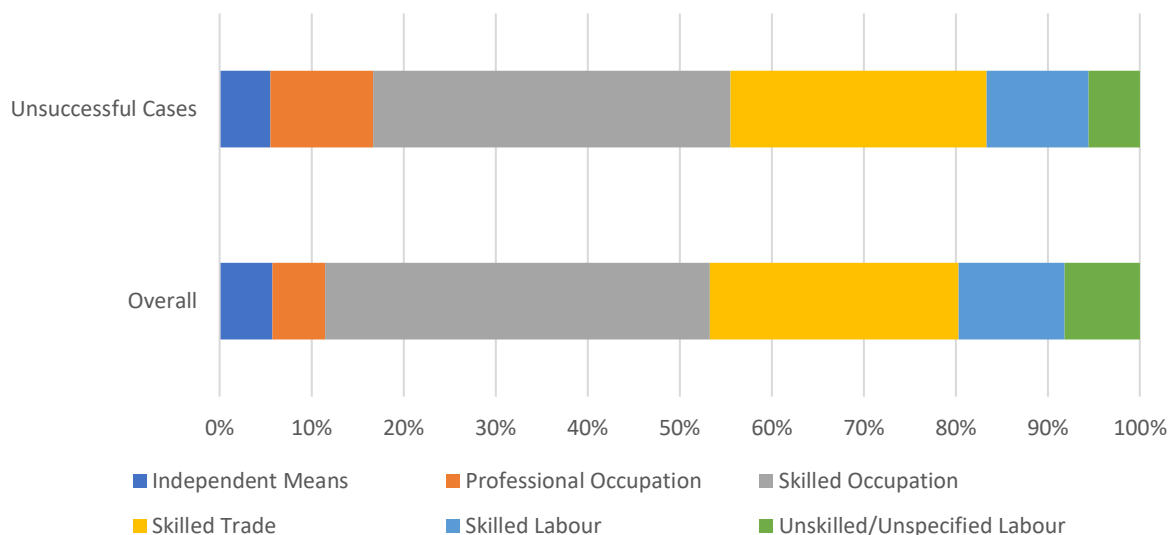


Figure 2.4 Comparison of husband's occupation category distribution between unsuccessful separation cases and all separation cases

(NB: There was only one unsuccessful divorce case in the DivDB, thus this comparison cannot be made for divorces)

The time period was potentially more influential in relation to cases assoilzied by a joint minute of agreement. The statements agreed to in a joint minute would become public if anyone extracted the case, and this provided spouses accused of marital crimes with an opportunity to formally clear their name. The eleven cases that were assoilzied directly by the Lord Ordinary were evenly split between the 1880s and 1890s. However, all but one of the cases assoilzied because of a joint minute were raised in the 1890s. Perhaps it became legally fashionable for defenders to require their name be cleared formally of any wrongdoing as part of the extra-judicial agreements.

One distinguishing factor among assoilzied separation cases was that William Mackintosh, the Lord Ordinary who was known as Lord Kyllachy, presided over them. Lord Kyllachy presided over more cases than any other Lord Ordinary in the SepDB. In total, he oversaw 20 cases: eight successful cases, ten assoilzied cases (six of which were assoilzied by a joint minute), one discharged case, and one case where the outcome was unknown.⁴¹ Lord Fraser, the second most recorded Lord Ordinary, presided over 17 cases. Just three of these were assoilzied (all directly by the LO and not by a joint minute). All other Lord Ordinaries

⁴¹ A discharged case was dropped without giving a finding, usually at the request of the pursuer.

presided over eight or fewer cases, and no more than one or two of those were assoilzied. Unfortunately for this survey, nothing is known of Lord Kyllachy's life, influences and opinions beyond basic biographical details. He was born in 1842 and read law at the University of Edinburgh. He qualified as an advocate in 1865 and became Sheriff of Ross, Cromarty and Sutherland in 1881 before being raised to the bench in 1889. He was made a fellow of the Royal Society of Edinburgh in 1891 after being nominated by his fellow Lord Ordinaries Lord McLaren and Lord Kinnear.

Details in the case files of four of the eleven cases that were officially assoilzied directly by the Lord Ordinary make it clear that, even without a joint minute, the case was assoilzied at the behest of the pursuer. Closer inspection of the accusations made during the remaining seven cases that were assoilzied directly by the Lord Ordinary (i.e., *not* at the behest of the pursuer) goes some way to explain why they were unsuccessful. Mary Letham's husband, James Taylor, was assoilzied by Lord Kyllachy in 1896 after she brought a separation and aliment case.⁴² Mary's case was based on ten incidents: six specific events and four generic unreasonable behaviours. Two of the specific incidents were threats of violence, and during one of those incidents, the threat was imminent as James was holding the knife with which he threatened to stab Mary. During her case, Mary also referred to incidents that occurred while the couple lived in Govan. She explained that James frequently struck her to the extent that others had been compelled to interfere. While legally a case could be brought on the grounds of "injury to life, limb, or health, or threats that created a reasonable apprehension of such injury", Lord Kyllachy deemed there was not sufficient enough threat in this case.⁴³

Across the SepDB as a whole, 45.46 per cent of incidents recorded did not include the specific date or month when the incident took place. In 28.15 per cent of incidents, the exact date of an incident was recorded. Mary Letham was vague about dates. In 80 per cent of incidents, Mary could not specify which month the incident had taken place, and in the remaining 20 per cent of incidents, she could only provide the month and year, and not a specific date. Mackay's *Manuel of Practice for the Court of Session*, it stated that when an action was brought on the grounds of cruelty:

the averments must be specific as to (1) date and place of the act of cruelty. Where the record was not specific as to the date of the cruelty, the [Lord Ordinary] dismissed the action.⁴⁴

⁴² NRS, CS46/1896/11/116, Summons. (NB: This case is C101 in Table 9.2 below.)

⁴³ Mackay, *Manual of Practice in the Court of Session*, 492.

⁴⁴ *Ibid.*, 491.

Perhaps the issue in Mary's case was that the accusations were just too vague. As Table 2.2 shows, four of the other six cases that were assoilzied by the Lord Ordinary without the pursuer's request also included a higher than average rate of vagueness.

Table 2.2 Distribution of incidents in assoilzied consistorial cases according to specificity/vagueness of date of incident

Type of Case	Case ID	Percentage of Incidents with a Complete Date (E.g., 28 March 1879)	Percentage of Incidents with a Month and Year and/or a Complete Date (E.g., March 1879, end of March 1879, or 28 March 1879)	Percentage of Incidents with a Year or No Information on Date
Separation	C011	11.11	22.22	77.78
Separation	C028	21.43	71.43	28.57
Separation	C063	19.05	61.90	38.10
Separation	C096	33.33	47.62	52.38
Divorce	C31	33.33	53.33	46.67
Separation	C101	0.00	20.00	80.00
Average for All SepDB Cases		28.15	54.53	45.46
Average for All DivDB Cases		22.97	50.21	49.79

Ambiguity was possibly also the issue in the 1884 case of Annie Mckay against John Allan. In this case, Lord McLaren found that the "severe blows" Annie received to the side of her head in December 1883 and January 1884, as well as the punches she suffered for questioning her husband's late hours in 1877, coupled with two generic accusations of rough, violent and harsh treatment, were not sufficient to warrant separation. However, despite not

finding for Annie in terms of her separation, Lord McLaren did order John Allan to pay her an aliment of £70 per annum if he would not take her back into his home.⁴⁵

Lord Kyllachy's decision-making process can be observed in the 1894 case of authoress Jessie Alexander against William Norquay Forbes. Jessie accused her husband of punching her, threatening to choke her, and violently shaking her before dragging her around their bedroom on twelve specific occasions. Furthermore, she cited incidents of economic, sexual and verbal abuse too. Rather than ambiguity, the problem here was the lack of witnesses. Each of the twelve violent incidents took place in the couples' bedroom and went unwitnessed. The proofs of the case no longer survive, but it seems likely that no one was able to testify to this physical abuse on Jessie's behalf. As Mackay's *Manual of Practice* relays, the pursuer's accusations had to be substantiated by "sufficient evidence independent of the admissions of the party".⁴⁶ In the Interlocutors Sheets, it was recorded that Lord Kyllachy "having heard Counsel on the Evidence makes avizandum" – meaning he took a break to further consider the facts of the case before making a judgement. Perhaps Lord Kyllachy was trying to find a way to help Jessie. Maybe he was moved by the sheer number of repeated attacks Jessie accused William of but could not substantiate. Alternatively, possibly he was paying serious attention to the sexual violence that we would now understand as marital rape that Jessie reported. However, there is no explanation for his avizandum in the record, and ultimately, he found that William should be assoilzied.⁴⁷

It was only in the 1891 case of Mary Devlin or Murphy against Patrick Queen that a Lord Ordinary's opinion was explicitly stated after the defender was assoilzied. The Lord Ordinary whose opinion survives was not the one who heard the case though. This is because Mary entered a Reclaiming Note and appealed the outcome of her separation case. The appeals process, and the surviving opinions of Lord Ordinaries, will be discussed in their totality below. However, it is useful to touch on the contents of Lord Moncrieff's review of Mary's case here too. In short, it was not because Patrick's cruelty was *not* unreasonable that Lord Moncrieff refused to overturn Lord Wellwood's decision to assoilzie Patrick. Instead, Mary's alcoholism made her a victim unworthy of the court's intervention.⁴⁸

⁴⁵ NRS, CS46/1885/1/21, Interlocutor's Sheets.

⁴⁶ Mackay, *Manual of Practice in the Court of Session*, 493.

⁴⁷ NRS, CS243/2386, Interlocutor's Sheets.

⁴⁸ NRS, CS241/3121, Reclaiming Note.

2.5 The Appeals Process

After a Lord Ordinary ruled on a separation or divorce case, the parties had 21 days to challenge the Lord Ordinary's ruling.⁴⁹ A reclaiming note was the name for a legal process of appeal in the CoS. While a reclaiming note could be lodged against any interlocutor (the record of an order made by the Lord Ordinary), they were only brought against the final interlocutor that outlined the Lord Ordinary's decision in this study. Nine separation case files included a reclaiming note: two were brought by the unsuccessful pursuer and seven by the unsuccessful defender.⁵⁰ There were potentially more cases appealed, but the documents no longer survive to confirm this. For historians, the reclaiming note can be a particularly useful document because this was where the opinions of Lord Ordinaries themselves were recorded for posterity. Five of the nine surviving reclaiming notes from separation cases contain the opinions of the associated Lord Ordinary.⁵¹ While this is too small a sample for quantitative analysis of the beliefs of Lord Ordinaries, the existing notes hint at the difficulties victims faced in bringing their cases, and some of the thought processes involved in judging a case of separation.

In two reclaiming notes attached to separations the Lord Ordinaries both revealed they were cautious of believing the pursuer's claims. Hugh Todd appealed against Lord Stormonth Darling's decision to grant his wife Annie Stewart a separation in 1895. Lord Stormonth Darling's opinion on the case stated that he had, "considered these cases with anxiety, because the proof is undoubtedly narrow". He went on to explain, "I discount a good deal from Mrs. Todd's account of the matter" and that "the only incidents which can be called serious were those of 12 October and 24 February" – the two occasions that Dr Dunlop had seen Annie. Lord Stormonth Darling also found fault with Annie for seeking a separation at all, especially because she was a middle-class woman. His opinion continued, "I think many women – perhaps most women – in *that rank of life* would have given their husband another chance" (emphasis added).⁵² Hugh was a clothier merchant, and the couple lived in the affluent Kelvinside district of Glasgow. Though he does not give his reasoning, this Lord Ordinary evidently expected middle-class women to tolerate their husband's ill-treatment, to be patient

⁴⁹ Mackay, *Manual of Practice in the Court of Session*, 293–94.

⁵⁰ An appeal could be made against the Lord Ordinary's decision in a divorce case, but Reclaiming Notes contained in divorce files were not recorded for the purposes of this study.

⁵¹ The author's photographs of the fifth reclaiming note (linked to c122 in the SepDB) were corrupted, and the author has not been able to access the original file at the NRS due to the COVID-19 global pandemic.

⁵² NRS, CS46/1896/1/71, Reclaiming Not.

and forgiving in the face of cruelty, perhaps because he felt they had more to lose in terms of respectability by bringing such a case.

This sentiment can be seen in Elizabeth Foyster's study of the earlier period from the Restoration to Divorce Act [1857]. Rather than an unwritten expectation from above, Foyster found that wives who "turned to the courts for relief were keen to emphasise that they had patiently endured lengthy periods of violence before they took this course of action".⁵³ Lord Stormonth Darling finished his assessment of the pursuer Annie Stewart by stating, "I do think that the wife was somewhat unrelenting, and that there was an unfortunate readiness on her part to fly to the maternal home". Despite this scathing view of the pursuer, Lord Stormonth Darling argued that, legally, Annie was entitled to a separation.⁵⁴ Many wives successfully navigated the civil justice system to escape their abusive spouses as Annie did. Lord Stormonth Darling's surviving opinion shows that even in successful cases, the Lord Ordinary did not necessarily believe the victim nor agree with their course of action.

Mary Murphy was one of the two female pursuers who appealed the decision of the Lord Ordinary after they were unsuccessful in their separation case. Lord Wellwood ruled that Mary had "failed to prove cruelty sufficient to warrant decree of separation" and noted that her husband, Patrick Queen, had twice offered to take her back. For these reasons, Lord Wellwood decided not to grant Mary a separation. When Mary appealed this decision, the case was reviewed by Lord Moncrieff, who upheld the opinion of the original Lord Ordinary. Lord Moncrieff first took issue with the delay between Mary leaving her husband and raising a separation case. During the condescendence, it was explained that Mary had left Patrick on 18 March 1890 after he had threatened to throw her out if she was still there when he returned that evening.⁵⁵ Mary only raised her separation case in late 1891. To Lord Moncrieff, Mary's decision to bring the case at this late stage was financially motivated: "in consequence of her business having fallen off, or her having spent too much money in building a new store, she now alleges that she requires assistance in the shape of aliment from the defender". More fundamentally, Lord Moncrieff did not believe that Mary had raised the case against her husband because she feared his cruelty, but instead because she had felt disdain towards her step-children. One of Lord Moncrieff's opinions gives an insight into legal attitudes towards marital cruelty that go beyond this specific case. Lord Moncrieff admitted that, while drunk,

⁵³ Foyster, *Marital Violence*, 2005, 90.

⁵⁴ NRS, CS46/1896/1/71, Reclaiming Note.

⁵⁵ NRS, CS241/3121, Summons.

Patrick had “treated the pursuer sometimes more roughly than he had any right to do”. However, he stated that Mary herself was at fault for this behaviour:

she seems to have taken a dislike to her step-children, and the effect which drink had upon her was that she used foul and abominable language to and about them which had the effect of enraging the defender

Based on his belief that Mary caused her husband to behave cruelly towards her, Lord Moncrieff argued that it had to be proven that this cruelty was “gross” if a separation was to be granted and that this could not be proven.⁵⁶ To Lord Moncrieff, Mary’s unreasonable behaviour – which never posed a threat to the life, limb, or health of her husband – meant she was not entitled to a separation. Although Patrick’s behaviour was “unmanly”, it was a reasonable response to Mary’s propensity for alcohol.⁵⁷

In the remaining two Reclaiming Notes with surviving opinions, the Lord Ordinary’s views supported the pursuer entirely. Lord Fraser explained his opinions regarding the second, 1887 separation case of Mary Hume against David MacDonald. He wrote that the case was a “very pitiful story” and his retelling of the facts of the case suggest he was sympathetic towards Mary’s plight.⁵⁸ As part of the defences, David and a former servant testified that Mary drank too much and was an unkind and unhelpful wife, who insulted her husband, was unwilling to make his dinner, and ordered the servant to refuse all her husband’s requests.⁵⁹ However, Lord Fraser reported that he considered this testimony to be “a tissue of falsehoods”. Before explaining his reasoning regarding the aliment, Lord Fraser concluded, “I believe the wife, and I therefore grant decree of separation”.⁶⁰

The case of Elizabeth Russell against Duncan Campbell Patterson was handled with even more care and attention due to Elizabeth’s position. As members of the landed gentry, Elizabeth and Duncan were elites. The separation case Elizabeth raised in 1844 played out over at least six years. The CoS assoilzied Duncan in 1845. Elizabeth then entered a reclaiming note to appeal this decision and she was successful. Duncan appealed this decision, and because the outcome was itself based on an appeal, the case had to go to a higher court. As there was (and is) no higher civil court in Scotland than the CoS, the case was heard by the House of Lords. The transfer to the House of Lords caused lengthy delays. In 1850, Elizabeth’s case was quickly

⁵⁶ NRS, CS241/3121, Reclaiming Note.

⁵⁷ NRS, CS241/3121, Reclaiming Note.

⁵⁸ NRS, CS246/1506, Reclaiming Note.

⁵⁹ NRS, CS246/1506, Proofs.

⁶⁰ NRS, CS246/1506, Reclaiming Note.

found to have no merit, and the majority of the time was spent debating who should have to pay the expenses associated with the case. Precisely what happened next is not contained in the archival records. A note – attached to an interlocutor that recorded another avizandum – was produced by Lord Cunningham in 1848. It contained a suggestion that may have been actioned at a later date, but no files remain. Despite there being no physical cruelty in this case, Lord Cunningham likened the behaviour Elizabeth endured:

to the remorseless cruelty said to be practised in savage nations, where their victims are said to be destroyed by constant drops of water poured on their head, till they expire by the agony and exhaustion of unceasing torture.⁶¹

He then asserted that something had to be done for Elizabeth to save her from the predicament that the law left her in. It was his opinion that Elizabeth qualified for a divorce on the grounds of desertion. He argued that:

On the assumption that no wife could be required to live in her husband's house exposed to his persevering disregard of his marriage vows, and to the daily contumely and insult with which she was treated, her departure from the house must be held not as *voluntary* or capricious, but as a *compulsory* expulsion which she could not control, and was bound to yield to. When that also is accompanied by an acknowledgement under the defender's hand, *that 'it is an utter impossibility,'* that he can ever restore the pursuer to her conjugal rights, it is thought that she acquired rights from the peculiar tenor of our laws, to which it is difficult to refuse effect.⁶²

While no record of a divorce exists, there must have been one. Duncan remarried an Ann Fletcher and had three children by her in the 1850s.⁶³ He then married an Elizabeth Ewart in 1861.⁶⁴ While Elizabeth Russell did not appear in public records after her separation case, when she died in 1885, her death certificate recorded her as “formerly wife of Duncan Campbell Patterson”.⁶⁵ The case would not have qualified for annulment under Scots law, so it seems plausible that Lord Cunningham's argument for divorce was used to find Elizabeth a solution.

⁶¹ NRS, CS230/R/10/3, IS (dated: April 26, 1848).

⁶² NRS, CS230/R/10/3, IS (dated: April 26, 1848).

⁶³ ScotlandsPeople, Marriage Certificate for Angus M Campbell, 23 August 1882, *Statutory Registers Marriages 096/B1 10* (Accessed: 22 April 2020).

⁶⁴ ScotlandsPeople, Marriage Certificate for Elizabeth Ewart, 22 August 1861, *Statutory Registers Marriages 490/88* (Accessed: 22 April 2020).

⁶⁵ Irish Genealogy, Death Certificate for Elizabeth Russell, 25 January 1885, *Registrar's Book of Deaths* (Accessed: 22 April 2020).

However the case played out, the extreme length of the case, and the pages of notes produced by the Scottish Lord Ordinaries speak volumes. Elizabeth's reclaiming note was not only granted, but her wellbeing was attended to by the Lord Ordinaries of the CoS over several years. Unlike in the Hume *ag.* MacDonald case, discussed below, where Mary Hume was made to re-apply for a second separation when her kindness invalidated her first, loopholes were found to enable Elizabeth to escape her unreasonable husband.

2.6 What Next for Successful Cases?

If neither party appealed, or if the appeal did not overturn the original ruling in favour, then the case was finished. Unless an issue arose around child custody, there would be no reason for the court to interfere further in the lives of a couple who were divorced. After a successful separation case though, the wife was entitled to aliment, regardless of whether she was the pursuer or defender. The Lord Ordinary determined the amount of aliment when they ruled on the outcome of the case. It was considered standard practice to set aliment for a wife at about a quarter of the husband's annual salary, though ultimately the decision was made at the discretion of the Lord Ordinary.⁶⁶ Isabella Barr, whose experience of marital cruelty was examined in depth in Chapter Seven, made an unusual aliment request. Her 1883 Summons stated, "the pursuer is quite contented to earn her own livelihood without [the defender's] assistance".⁶⁷ During the proofs, Isabella explained, "I do not want aliment for myself but I think [John Bell] should give something to help bring up the children".⁶⁸ Her husband's under-employment and alcoholism meant that Isabella already supported the family through her fruit business. Thus, Isabella only asked that John contributed to the upbringing of their seven children.

Articles in the *Glasgow Herald* related to aliment suggest that the most common way for wives to receive the money they were owed was through wage arrestment. This process authorised the debtor's (i.e. husband's) employer to make regular deductions from the debtor's wages and redirect these to the creditor (i.e. the wife).⁶⁹ In April 1883 a case was heard in the Sheriff Court in Glasgow regarding the separation and aliment of Margaret Morrison and

⁶⁶ Mackay, *Manual of Practice in the Court of Session*, 494.

⁶⁷ NRS, CS243/560, Summons.

⁶⁸ NRS, CS243/560, Proofs.

⁶⁹ *Glasgow Herald*, 4th March 1875 'Action for Aliment – Important Decision'; *Glasgow Herald*, 3rd April 1883, 'The Arrestment of Wages Question'

William Mathias.⁷⁰ In 1882 Margaret raised an action of separation and aliment against her husband on the grounds of his adultery. She won the case and William, a mercantile clerk in the employment of Messers Edgar & Crerar, bedding manufacturers, was ordered to pay aliment. The Lord Ordinary set aliment at £18 per annum for Margaret and £8 per annum for their child, so long as the child lived with Margaret. As appears to have been usual practice, Margaret applied routine arrestments on her husband's wages. However, Margaret never received any of the aliment between March and July 1882. Sheriff Lees ruled that William's employer committed a breach of arrestment when they continued to pay William his wages in those months, and ordered Messers Edgar & Crerar pay the sum to Margaret in full. This situation came about because William devised a system of avoidance whereby his employers – after he threatened to leave the company – agreed to pay him his wages a month in advance, which enabled them to circumvent the arrestment.⁷¹

A legal separation entitled the pursuer to live separately from their spouse but it did not allow for either party to remarry while the other was still alive, only a divorce could enable that. The logic behind this distinction was that cruelty could be short term and that a cruel spouse might improve their behaviour after a period of separation or with age.⁷² Subsequently, a separation became invalid when the parties resumed cohabitation. Mary Hume found this out when she tried to claim aliment from her husband David MacDonald in 1887. The couple were both in the clothing industry – she was a dressmaker and he a tailor – and they had been married in 1872. Mary explained that shortly after the marriage, David began to act cruelly. She added that, in the hope David might alter his behaviour, she “withdrew herself from connubial intercourse with him” and slept downstairs with their servant.⁷³ Nevertheless, her attempts to reform her husband's behaviour were unsuccessful, and in September 1876 she raised an action of separation and aliment against him and won. After eight years of living apart, in June 1884 Mary agreed to take David into her home on a probationary basis because he was in poor health. David was soon well enough to become a danger to Mary again, and nine months later they agreed to live separately. David only paid aliment irregularly and in December 1886 his arrears amounted to £30. Through the CoS, Mary charged David to make payment and a poinding was executed (this is a Scots law process by which the debtor's moveable property is given to the creditor). However, David challenged this action and it was halted while the Lord Ordinary

⁷⁰ This case is not included in the SepDB because the NRS does not hold the file.

⁷¹ *Glasgow Herald*, 3rd April 1883, ‘The Arrestment of Wages Question’.

⁷² Mackay, *Manual of Practice in the Court of Session*, 493.

⁷³ NRS, CS246/1506, Summons.

reconsidered the issue. Because a separation was invalidated if cohabitation was voluntarily resumed, Lord Fraser had to find that “the decree had become inoperative in consequence of that cohabitation”. Thus Mary was no longer entitled to aliment.⁷⁴ In November 1887, Mary raised her second action of separation and aliment against David, and was again successful.

2.7 Conclusion

There were almost 500 newspaper reports on criminal court proceedings related to marital cruelty that were logged in the criminal court database (hereafter, CCDB). As criminal assaults, the overwhelming majority of these incidents would have met the threshold for a separation as they were examples of injury to life, limb or health. Additionally, the dark figure means that many more lived experiences have been lost to history. Despite this, the number of divorce and separation cases that appeared before the CoS was relatively small. The complexities involved in the process of seeking a legal separation or divorce, which have been recovered in this chapter, go some way to explaining this discrepancy.

This chapter has shown that the surge in CoS cases of separation and divorce from the 1880s onwards could be explained by two external factors. It was in the 1880s that the *Glasgow Herald* began to systematically report on these CoS cases, heightening awareness of their existence to those outside of the legal field. Furthermore, while parishes across Scotland had the power to bring cases on behalf of poor subjects, it was only in the 1880s that this practice began to be used in the Greater Glasgow area with regards to separations and divorces. Despite having the legal right to bring a case, social factors made the decision to bring a case a difficult one. While uncountable, the limited evidence available in these consistorial cases suggests that shame was likely a significant factor. Victims refrained from publicising their situation to avoid the embarrassment of revealing their spouse was cruel.

Raising an action of separation or divorce was only the beginning of the process. Almost a quarter of separations, and a smaller number of sampled divorces, were unfinished. The surviving documents rarely explain the abrupt stop: the couple may have resumed cohabitation, either party may have died, or the parties might have agreed to settle their dispute out of court. Although it is not possible to tell definitively, these cases serve as evidence that the permanent dissolution of a marriage (through divorce) or the potentially permanent halt of

⁷⁴ NRS, CS246/1506, Reclaiming Note.

a marriage (through separation) was not necessarily the pursuer's most desired route to escape marital cruelty.

The defender in a CoS action might also be assoilzied. All of the unsuccessful cases were brought in the final two decades of the nineteenth century. However, some of the unfinished cases from earlier decades may have resulted in the defender being assoilzied but the records have been lost. Thus, it is not possible to read too much into this pattern. One factor that can be more assuredly excluded is class. The distribution of husbands' occupation categories in unsuccessful cases reflected the distribution in all SepDB cases almost identically.⁷⁵ Thus, the content of the individual cases themselves, rather than an external factor, was most likely the reason the defender was assoilzied. Even if the behaviours reported were judged to be cruelty worthy of a separation, the victim had to be specific as to the occasions they were citing. Failure to do so would result in the defender being assoilzied by the Lord Ordinary.

Finally, although they are limited in their survival, the opinions Lord Ordinaries provided during the Reclaiming Note process have been insightful. As well as revealing the expected benefits associated with wealth, the opinions also spoke to two aspects discussed in histories of marital cruelty in other regions. They show that even when a victim was successful, they were not always believed; and, to be successful, a victim had to be deserving of the CoS's intervention.

⁷⁵ NB: There was only one assoilzied divorce case so comparing the occupation categories of husbands is not possible.

Part II: Behaviours

Chapter 3 Physical and Sexual Cruelty

This chapter will consider the different types of unreasonable physical behaviour that have been identified during the research. Given the undeniably physical nature of sexual abuse, unreasonable sexual behaviours will be discussed alongside unreasonable physical ones; however, reporting of physical abuse with a sexual element was generally rare. Physical abuse has been the primary focus of existing historiography, but the quantitative methodology employed in this thesis, combined with the new Scottish source material, provides ample opportunity for innovative contributions. In particular, this chapter will show that physical abuses rarely occurred in isolation. Rather, physical cruelty – in its many forms – was just one form of unreasonable behaviour that contributed to the system of maltreatment that victims experienced. This chapter will begin by addressing limited changes in the reporting of the behaviour category physical abuse generally across the century before delving into the individual forms of physical unreasonable behaviours: abuse with the body, abuse with an object, venereal disease, and marital rape.

Throughout this chapter it is important to remember that, victims reported several other forms of non-physical behaviour that they deemed unreasonable in marriage. Although physical abuses were prevalent, the evidence recovered in these sources indicates that they rarely occurred in isolation. Instead, physical cruelty was just one part of a system of maltreatment that usually contained a range of other behaviours that have often been side-lined or ignored altogether. Thus, there must have been many who suffered in silence because the cruelty they endured was not physical and did not meet the legal thresholds for intervention. Their experiences remain unreachable to historians.

3.1 Broad Reporting Patterns

Physical abuse was reported in almost every separations database (hereafter, SepDB) and criminal court database (hereafter, CCDB) case (Figure 3.1). In the divorce database (hereafter, DivDB), 56 per cent of sampled cases included incidents of physical cruelty. As the reporting of cruelty in divorce cases was legally surplus to requirement, there was no threshold related to physical harm that the cruelty was required to meet. Thus, half of divorce cases did not mention physical cruelty at all. Figure 3.2 shows the distribution of reporting by database,

across the decades of the Victorian period. With the exception of the 1840s and 1900s, when only a small number of cases were brought, physical cruelties were reported in at least 90 per cent of cases. The DivDB cases initially always included reports of physical abuse, but from the 1870s onwards not all cases did so. With regards to occupation category, variations between categories in the CCDB and SepDB were negligible (Figure 3.3). In the DivDB, only the unskilled labour and unknown categories broke with the pattern of reporting physical cruelty in around half of cases. However, the number of cases in those categories was four and one respectively, so conclusions regarding the associations between physical violence cannot be drawn from this data.

Sometimes the description of an incident only made clear that the attack was physical but was too generic to allow the behaviour to be assigned to a specific behaviour type such as abuse with the body or an object. Where this was the case, the behaviour was recorded as ‘assault’. This behaviour type is different from the other generic category of ‘ill-treatment’ because it was possible to determine that the behaviour had been physical in nature. Assault was reported evenly overall in each of the three databases: 30.33 per cent of separations (37 cases), 30 per cent of divorces (15 cases), and 29.21 per cent of criminal court cases (142 cases).

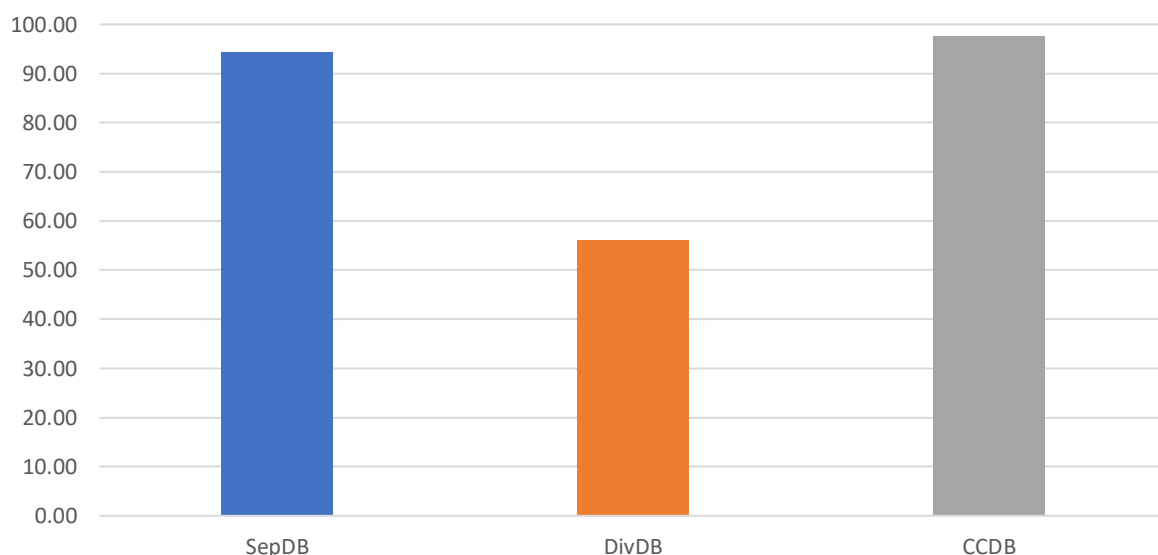


Figure 3.1 *Percentage of cases that reported behaviours from the categories ‘physical’ or ‘sexual’*

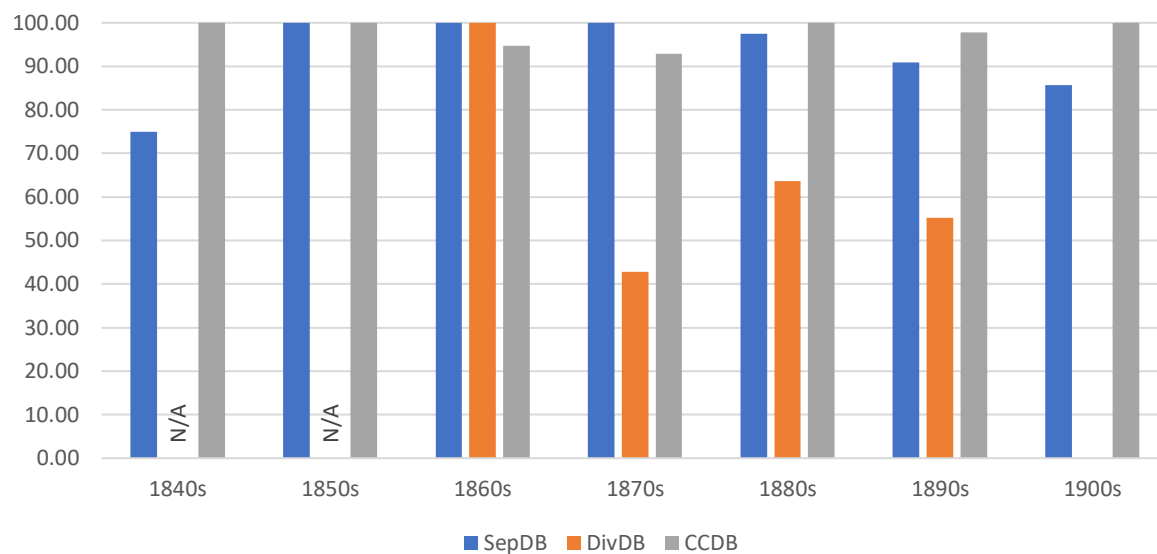


Figure 3.2 *Percentage of cases that reported behaviours from the categories ‘physical’ or ‘sexual’, by decade*

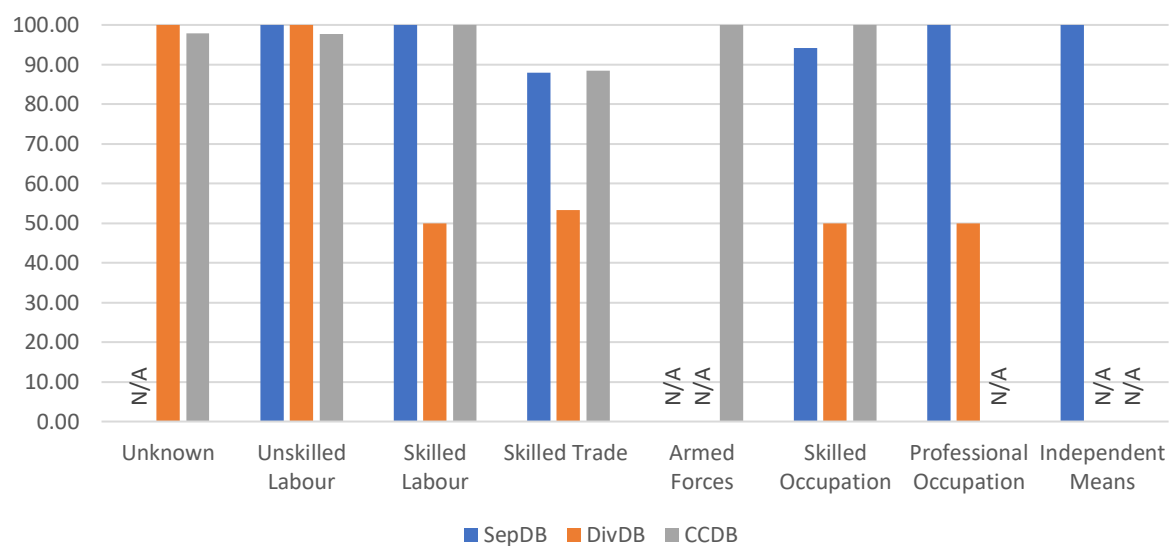


Figure 3.3 *Percentage of cases that reported behaviours from the categories ‘physical’ or ‘sexual’, by husband’s occupation category*

In all three databases, generic accusations of assault were most likely to be made by those in the unskilled labour category (Figure 3.4). Approximately, there was a 15 per cent decrease in reports in all three databases between the unskilled labour and skilled labour categories. In the SepDB and DivDB there was another slight decrease in reporting at the skilled trade level, though there was no significant change in the CCDB at this stage. In the better-off occupation categories, the databases involved different results. In the SepDB the rate of reporting continued to decrease as the occupation categories increased, with the distinct exception of the professional occupation category, where the rate was up to 42.86 per cent (three cases). By comparison, the DivDB rate remained stable in the skilled occupation category but was non-existent at the professional occupation category level. Likewise, there were no reports from higher occupational categories at all in the CCDB.

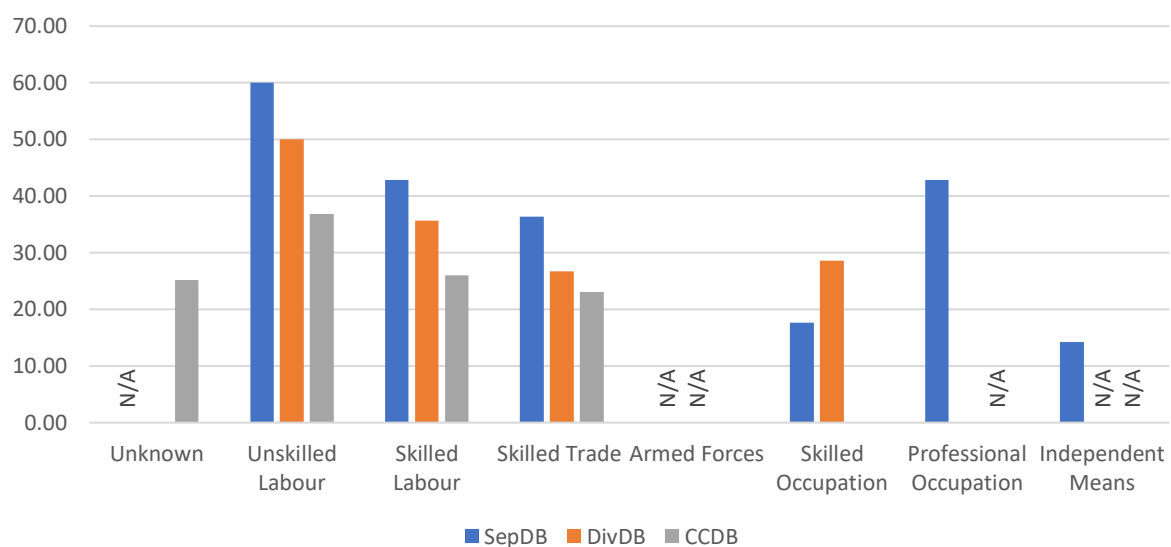


Figure 3.4 Percentage of cases that reported behaviour type ‘assault’, by husband’s occupation category

In the CCDB, the scarcity of space in the newspapers likely contributed to the vague reports that resulted in ‘assault’ entries. However, why these ambiguous accusations featured more often in the cases of less-well-off CoS pursuers is not clear from the case files. As the analysis of specific forms of physical cruelty below will confirm, it was not the case that these generic reports were made in place of specific accusations. Perhaps the lawyers of working-class

pursuers in Court of Session (hereafter, CoS) cases were careful to include generic accusations relating to the defenders habitual physical cruelty to bolster the image of the pursuer as a victims of cruelty that threatened their health, and thus secure their separation or divorce.

3.2 Abuse with the Body

Abuse with the body was the physical assault of another person where the attacker used their own body as a weapon. Largely this involved punching, kicking, slapping, spitting, pushing, or dragging. Accusations of abuse with the body were regularly made in the criminal courts because assault was a criminal act that so often resulted in visible evidence on the victim's body. The behaviour was also reported in separation proceedings because abuse with the body was an example of a threat to life – the legal requirement for a separation. As such, abuse with the body was the single most commonly reported form of abuse in both the CCDB and SepDB (Figure 3.5), not just within the category of physical cruelty but across all behaviour types. In the DivDB, abuse with the body was the most commonly reported form of physical abuse, but it was the seventh most commonly reported individual behaviour type overall. The 34.61 per cent difference in the rate of reporting overall between the SepDB and CCDB appears to have been caused by legal procedure. A separation case was made up of multiple incidents that had been carried out over a prolonged period of time. As such, there was the opportunity for physical abuse to be carried in various ways on different occasions: while in one instance a person might abuse with their body (punch), on another they might abuse with an object (beat them with a chair). Both forms of unreasonable physical behaviour would then be reported in the *same* separation case. In comparison, cases in the criminal courts were focused on single incidences of criminal behaviour. Thus, they were more likely to involve just one type of cruelty. In 319 of the 486 CCDB incidents (65.63 per cent), the case was based on just one form of physical abuse.

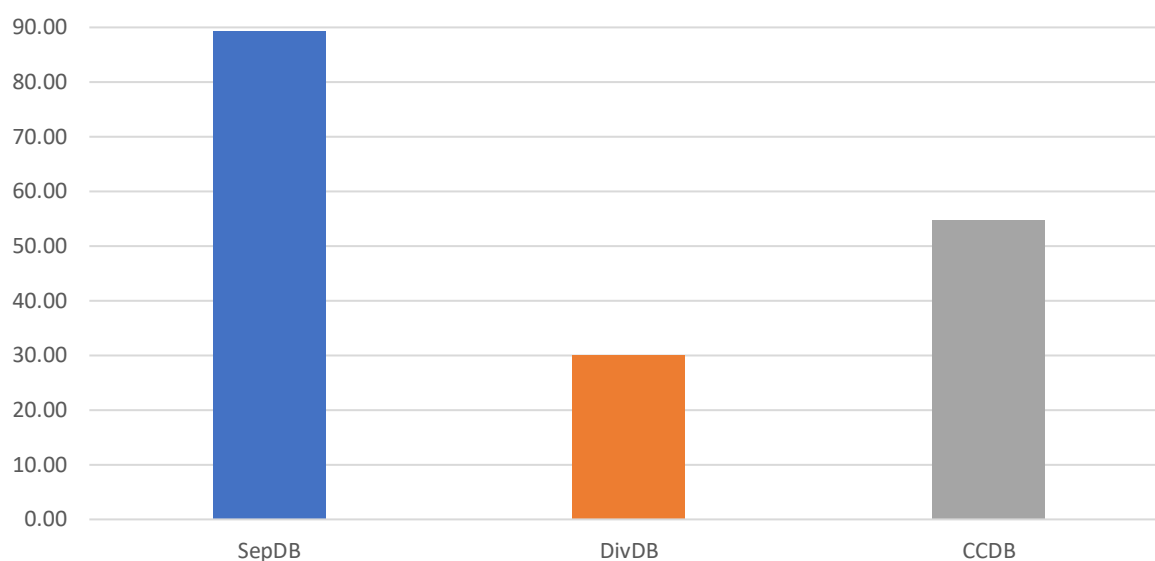


Figure 3.5 Percentage of cases that reported behaviour type ‘abuse with body’

The lower rate of reporting among divorce cases can also be explained by legal procedure, but for a different reason. When someone brought a divorce case, they had to prove adultery or desertion to be successful. To cite incidents of cruelty in marriage was legally redundant, but 50 per cent of divorce cases in Victorian Glasgow did so regardless.¹ The cruelty cited in divorce cases was supplementary evidence of a spouse's bad character. Because there was no threshold for the inclusion of cruel behaviour reported during divorce cases, there was scope for the inclusion of more behaviours that did not constitute a threat to life or limb and a truer distribution of unreasonable behaviours across a broad range of forms of cruelty can be seen. Equally, there was no need for victims to prove abuse with the body, hence the lower rate of reporting in divorce cases compared to the criminal court and separation cases.

Across the period, the rate of reporting of abuse with the body varied (Figure 3.6). In the SepDB the rate was initially low due to the small number of cases reported in the 1840s, but from the 1850s through to the 1880s almost every separation case involved at least one incidence of abuse with the body. In the 1890s reports dropped slightly to around four in five separation cases, and the rate of reporting rose only slightly in the cases from the 1900s. There was more fluctuation in the rate of reporting in the CCDB, though the rate was consistently between 35 and 65 per cent in every decade. The pattern in the DivDB was different still. There were no divorce cases in the sample from the 1840s or 1850s, so abuse with the body could not

¹ See Chapter One, section 3, Sources and Methods.

be recorded until the 1860s. When abuse with the body was first recorded in divorce cases it was initially reported in 50 per cent of cases (one of the two divorce cases included in the sample from the 1860s). The rate of reporting then dropped in the 1870s and recovered only slightly in the 1880s, before rising further still in the 1890s to 37.93 per cent.

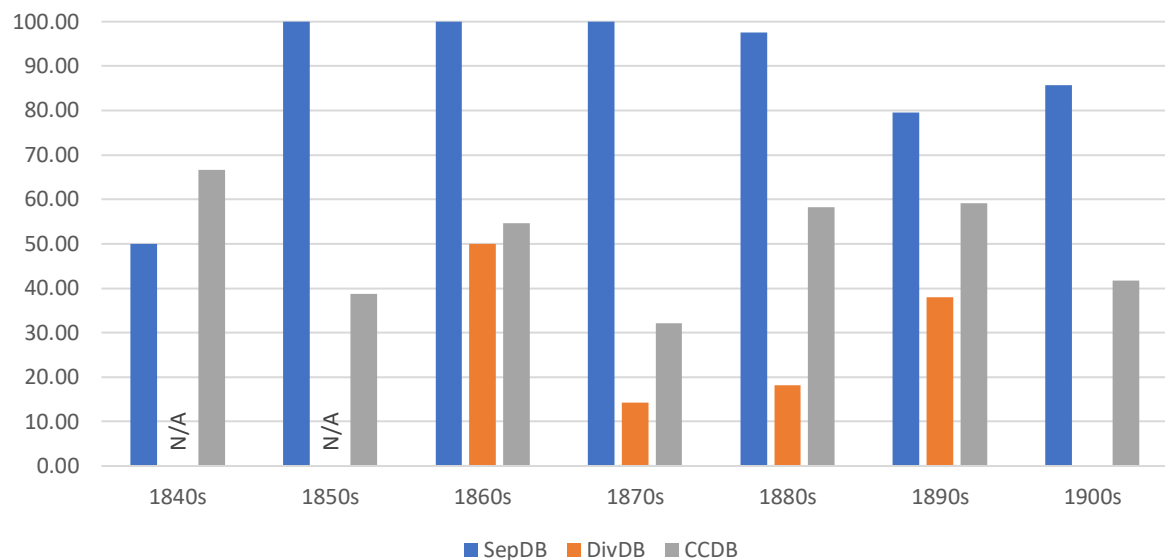


Figure 3.6 Percentage of cases that reported behaviour type 'abuse with body', by decade

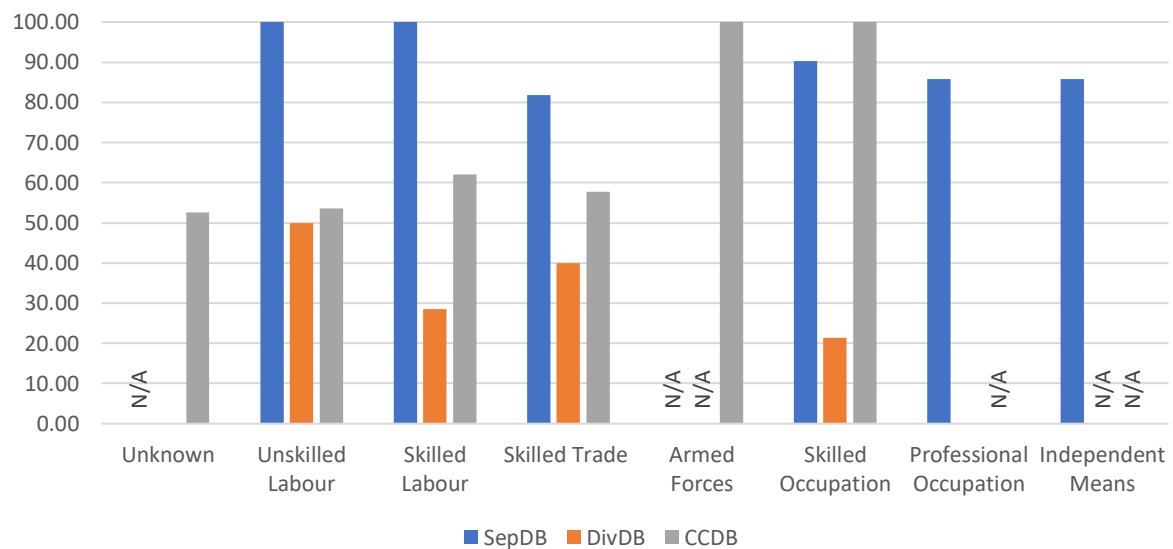


Figure 3.7 Percentage of cases that reported behaviour type 'abuse with body', by husband's occupation category

Class was a more significant factor in determining the rate of reporting of abuse with the body. In the SepDB, abuse with the body was reported by at least 80 per cent of cases at all levels of society (Figure 3.7). Although abuse with the body was reported at a lower rate in cases brought by wealthier couples, the difference is smaller than might be expected given that middle- and upper-class Victorians deliberately promoted the mis-association of marital cruelty with the working classes.² This trend towards lower reporting among wealthier couples can also be seen in divorce cases, though the difference is greater. Reports were highest among those in the unskilled labour category (50 per cent or two cases). Those in the skilled trade category reported abuse with the body slightly less: 40 per cent of the time (6 cases). The skilled labour and skilled occupation categories were slightly lower still. There were no reports of abuse with the body at all from the professional occupation category though. At first glance, Figure 3.7 implies that reports in the CCDB worked differently to cases in the SepDB and DivDB in terms of class. Abuse with the body was reported in 100 per cent of the skilled occupation category cases, implying that abuse with the body to be more common among the wealthier. However, there were only four cases in the skilled occupation category in the CCDB and no professional occupation or independent means category cases. In the armed forces case again the figure of 100 per cent is based on a similarly small sample, in this case a single case. The remaining occupation categories all reported abuse with the body approximately 50 to 60 per cent of the time.

While accusations made in the criminal courts were always specific to particular incidents, claims could be broader in nature during separation and divorce trials. It was commonly stated in the condescendence that the defender “often”, “routinely”, or “on several occasions” struck or beat the pursuer.³ Where the proofs of a separation or divorce case survived, generalisations about the perpetrator’s abuse of the victim with their body are present in this evidence too. In the 1897 separation case of Annie Wallace ag. Thomas Daly, two of the couple’s neighbours, from when the family lived in Govan, testified to the fact that Thomas often struck Annie, and that, as a result, her eyes and face were often bruised.⁴

Incidents involving abuse with the body could be short outbursts of violence, but the severity of the attack was not defined by its longevity. In May 1865, Michael Brown was convicted by Bailie Taylor at the Central Police Court and sentenced to pay 21s or be

² Hammerton, *Cruelty and Companionship*, 73.

³ See for example, National Records of Scotland, Edinburgh (hereafter, NRS), CS46/1897/4/23, Summons; NRS, CS46/1898/5/44, Proofs.

⁴ NRS, CS46/1898/5/44, Proof.

imprisoned for 30 days for striking his wife, Sarah McFarlane, a severe blow with his clenched fist, cutting, and badly injuring her eye.⁵ Similarly, Margaret Harvey reported during her separation case that, late one December night in 1886, her husband – who was an electrician – had “savagely” kicked her in the side.⁶ Emmeline Baker was sitting by the fire breastfeeding the eldest child of her marriage when she remonstrated with her husband, a house factor called Thomas Stewart, for his cruelty to the child.⁷ Emmeline reported he struck her so severely that she fell off the stool and fell against the fireplace grate, severely burning her hand and arm.⁸ Florence Gibbs claimed that, around February 1893 at their home on the family estate of Braidwood, Lanark, her husband Colonel James Stevenson had “on one occasion struck [her] on the face with his fist, and on another occasion he intentionally trod violently on her foot, causing her great pain”.⁹ While the violence in these examples was not prolonged, and may seem less significant compared to acts which caused lasting damage discussed below, they were considered unreasonable by the victims who reported them.

Abuse with the body could also be part of a more drawn-out attack. Jane Ramsey told of four specific, lengthy, physical beatings by her husband, slipper manufacturer James Postley. In each incident James was said to have knocked Jane to the floor and kicked and punched her. He also tore her hair repeatedly, bit her hands, twisted and dislocated her wrist, and knocked out four of her teeth.¹⁰

Although bruises could fade, some incidents of abuse with the body had a lasting effect. Foreman engineer John Forbes blinded his wife Annie Wotherspoon. He had struck her so violently that his fingernail cut her eyeball.¹¹ Mrs Duffy had some of the bones in her leg fractured after she and her husband, miner Patrick Duffy, had drunkenly quarrelled and he retaliated by striking and kicking her.¹² When Emmeline Baker divorced her husband Thomas Stewart in 1897, she told of a non-physical affect that her husband’s repeated abuse had had in the family. It was stated in the Summons that “the defender [Thomas] repeatedly struck the pursuer [Emmeline], and knocked her head in a violent, outrageous, and riotous manner, and in consequence *the children were always afraid of him* [emphasis added].”¹³ Victims’ lives could be severely altered physically and psychologically by marital cruelty.

⁵ *Glasgow Herald*, 25/5/1865.

⁶ NRS, CS46/1895/12/35, Summons.

⁷ House factor is the Scots term for estate agent.

⁸ NRS, CS46/1897/7/79, Summons.

⁹ NRS, CS243/5149, Summons.

¹⁰ NRS, CS46/1884/1/102, Summons.

¹¹ NRS, CS46/1898/1/48, Summons.

¹² *Glasgow Herald*, 9/10/1884.

¹³ NRS, CS46/1897/7/79, Summons.

In some cases, the alleged cause of the attack was alluded to when it was reported. Disagreements around access to money or alcohol were particularly common.¹⁴ On other occasions the reasons seem to have been more trivial. Jessie Murray, who kept a small confectionary business at the time she brought her case in 1900, claimed that her husband James Mitchell had struck her in September 1894 because she had attended her mother's funeral against his wishes.¹⁵ Patrick Gallocher was convicted of having kicked his wife with his booted feet after they had had a disagreement over what led women to use bad language.¹⁶

There were also numerous examples of cases where defenders attacked victims for no apparent reason at all. Some victims, like Mary Ann Irving, proactively defended themselves against the defence of provocation. In the Summons Mary Ann cited an incident, which took place on 31 March 1875, where she claimed her husband William Steel had "committed a most violent assault upon her without the slightest provocation." Scots law did not "as a general rule recognise provocation by words or disgusting actions", instead, a "new and sudden stimulus to violence" was the only way the legal defence of provocation could be argued. defence.¹⁷ In the Summons her lawyer described how William had "caught [Mary Ann] by the throat and almost choked her," and how after she had cried out for help, he "violently threw her on the hearth stone whereby she was seriously hurt and injured and in particular received internal injuries that caused her to split blood for some time after."¹⁸

There were some accusations of abuse with the body brought against wives by their husbands in the separations and divorces surveyed. For example, Samuel McCutcheon – one of the two male pursuers in the SepDB and a wine and spirit merchant – reported his wife had torn his cheeks with her finger nails and had punched him on the ear.¹⁹ While 42 defenders in separation cases submitted a defence to the pursuer's Summons, just three cases contained accusations of abuse with the body. There was also just one divorce case with a female defender that included an accusation of abuse with the body. Jessie Ferrie was accused of "sometimes" striking her husband, choir master William Bannatyne.²⁰ Furthermore, there were 14 female perpetrators in the CCDB, six of whom were accused of having abused their husbands with their body. Rose Murray, described by the *Glasgow Herald* as "an exceedingly ill-tempered

¹⁴ See for example: NRS, CS46/1900/12/108, Summons; NRS, CS46/1901/1/26, Proof; *Glasgow Herald*, 11/5/1865; NRS, CS243/3110, Summons; NRS, CS46/1898/5/30, Summons.

¹⁵ NRS, CS46/1900/12/108.

¹⁶ *Glasgow Herald*, 27/11/1896.

¹⁷ Eric M. Clive, *The Law of Husband and Wife in Scotland* (Edinburgh, 1974), 529.

¹⁸ NRS, CS243/6557, Summons. See also NRS, CS46/1885/7/55, Summons.

¹⁹ NRS, CS46/1891/12/68, Summons.

²⁰ NRS, CS46/1897/6/117, Proofs.

woman,” was fined 7s 10d by Bailie Donald of the Airdrie Burgh Court in 1896, for beating her husband on the face and tearing his clothing.²¹ Likewise, Sarah Reid was given the option of a £2 fine or 20 days imprisonment after being convicted of striking her husband with her fists and cutting his back, slightly, with a knife.²²

There was one separation case where the defender suggested that his wife had their teenage sons physically assault him on her behalf. 53-year-old joiner Hamilton Shedden Snr. reported that on the 28 February 1896 he was struck on the back of the head and rendered senseless while walking down Main Street in the Gorbals. He claimed the attack had been carried out by his 18-year-old son William Shedden. Hamilton Snr. went on to state that on the same night another of his sons, Hamilton Jnr., came to his lodgings and threatened to cause a disturbance and kill him with a hammer. According to Hamilton Snr.’s defences, Hamilton Jnr. had to be restrained by the police. It is implied in Hamilton Snr.’s defences that the incidents occurred at the wishes of the pursuer, his wife Mary Reid. Earlier in the evening Hamilton Snr. had informed Mary that he had resolved to take lodgings to escape her insulting treatment of him. Hamilton Snr., anticipating trouble, had taken a police officer with him to collect his chest from the family home. Mary had become violent and Hamilton Snr. had given up his attempt. The implication was that the sons had gone out and attacked their father as retaliation for him trying to remove his chest from the family home earlier the same day.²³

By organising the behaviours in a database, it was possible to track which incidents took place during pregnancy. Pursuers in a fifth of SepDB cases explicitly stated that at least one incident occurred during pregnancy. The rate was lower in the DivDB, where 8 per cent (four divorce cases) reported cruelty during pregnancy, and lower still in the CCDB where six of the 486 incidents took place during pregnancy (1.23 per cent). In some cases, the pregnancy was mentioned to increase the sense of wrongdoing. This was the case in the 1895 separation brought by Annie Corrigan against Hugh Swan, a wine and spirit merchant:

During the month of May 1893, a few weeks before the birth of the second child of the marriage, viz., Catherine Kenivan Swan, and within their dwelling-house, 57 Marlborough Street, Glasgow, the defender struck the pursuer violently, which, in her advanced state of pregnancy, greatly excited and injured her.²⁴

²¹ *Glasgow Herald*, 17/3/1896.

²² *Glasgow Herald*, 3/10/1876.

²³ NRS, CS46/1896/10/75, Defences.

²⁴ NRS, CS46/1895/9/29, Summons.

To strike Annie would have been evidence of maltreatment, but to do so while she was pregnant made Hugh's behaviour all the more dangerous and brutal. In eight separation cases the abuse received by the pregnant victim was explicitly believed to have caused her to miscarry. Additionally, in one case from each of the three databases, cruelty during pregnancy was reported to have brought about premature labour. Peter Fraser, a ship master, repeatedly attacked Janet Sinclair while she was pregnant in the summer of 1889. The first reported attack occurred at the end of July, and Janet had to be seen to by a doctor. After an attack at the beginning of August, she became ill again. Despite filing charges against Peter with the police for this incident, she never appeared at court to testify against him. It was after another attack, on 22 August, that Janet miscarried. This time she saw the prosecution through. Peter was given the option of a £5 fine or 60 days imprisonment for his actions.²⁵ This also appears to have been the turning point in Janet's experience. After this incident she took the children and lived separately from her husband. Although she decided to not go ahead with the separation proceedings she initiated at this time, and to return to her husband, her attitude was clearly changed.

Miscarriage was not always a spark that led victim to seek help though. Another wine and spirit merchant, David Phillips caused his wife Catherine O'Neil to miscarry after striking her on various parts of her body in 1874. In December 1876 Catherine gave birth prematurely to a child who died within a day. This, Catherine averred, was caused by the venereal disease that David had communicated to her. Catherine persisted in her marriage for five more months. At that time, David struck and kicked her in a particularly brutal manner and she was required to live with a neighbour for two months while she received medical treatment. She again resumed cohabitation with her husband and tried to enable her marriage to continue. In the summer of 1878 she raised an action of separation, but it 1880 before she saw an action through fully. Even after a miscarriage that Catherine blamed her husband for, Catherine felt compelled to try and maintain her marriage.²⁶

3.3 Abuse with an Object

A less common form of physical abuse was abuse with an object. As Figure 3.8 shows, abuse with an object was reported in 42.62 per cent of separation cases (52 cases), 24.27 per cent of

²⁵ NRS, CS243/2356, Summons.

²⁶ NRS, CS243/5749, Summons.

criminal court cases (118 cases) and just 6 per cent of divorce cases (3 cases). Reports of abuse with an object were not made at a consistent level across the period by victims in any of the databases. While the behaviour was mentioned in every decade in the SepDB and CCDB, it was only reported in divorces brought during the 1890s (Figure 3.9). Figures related to the husband's occupation category are more interesting. Figure 3.10 shows that there was little variation in the reporting rates between occupation categories in the SepDB. Compared to reports of abuse with the body in the SepDB, abuse with an object was reported around half as much. Further, there was more variation between occupation categories in reporting of abuse with an object compared to abuse with the body. However, the pattern of variation was different in an important way. Cases from the skilled labour category were as equally likely to report abuse with an object as those from the professional occupation category, while the independent means category reported slightly more than the unskilled labour category. Whereas the elite categories were slightly less likely to report abuse with the body than the other occupation categories, elites were equally as likely to report abuse with an object as those at the bottom of the occupation scale.

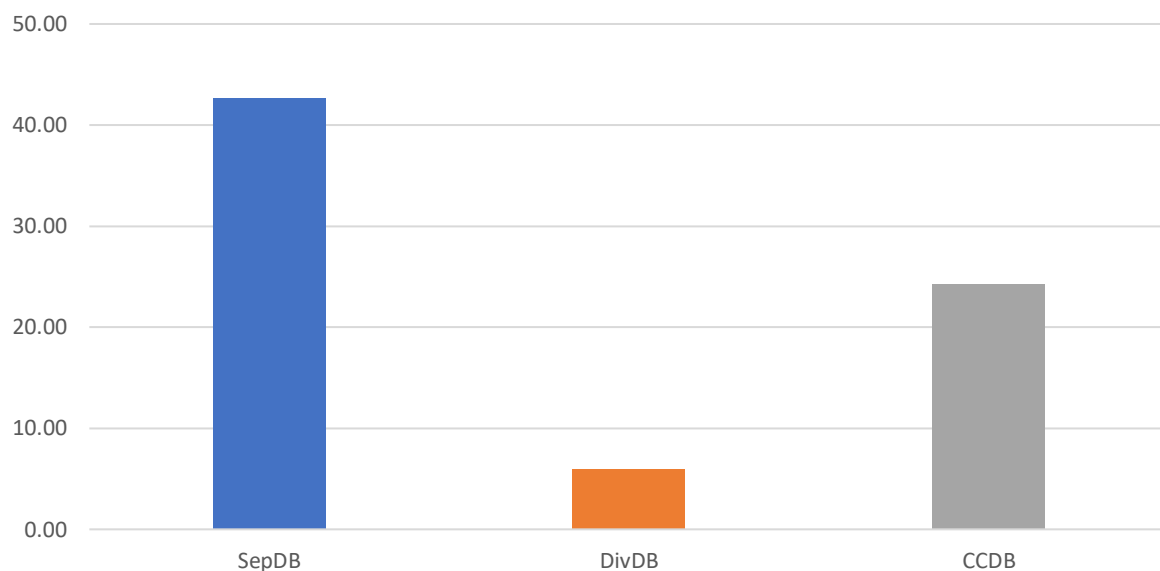


Figure 3.8 Percentage of cases that reported behaviour type 'abuse with object'

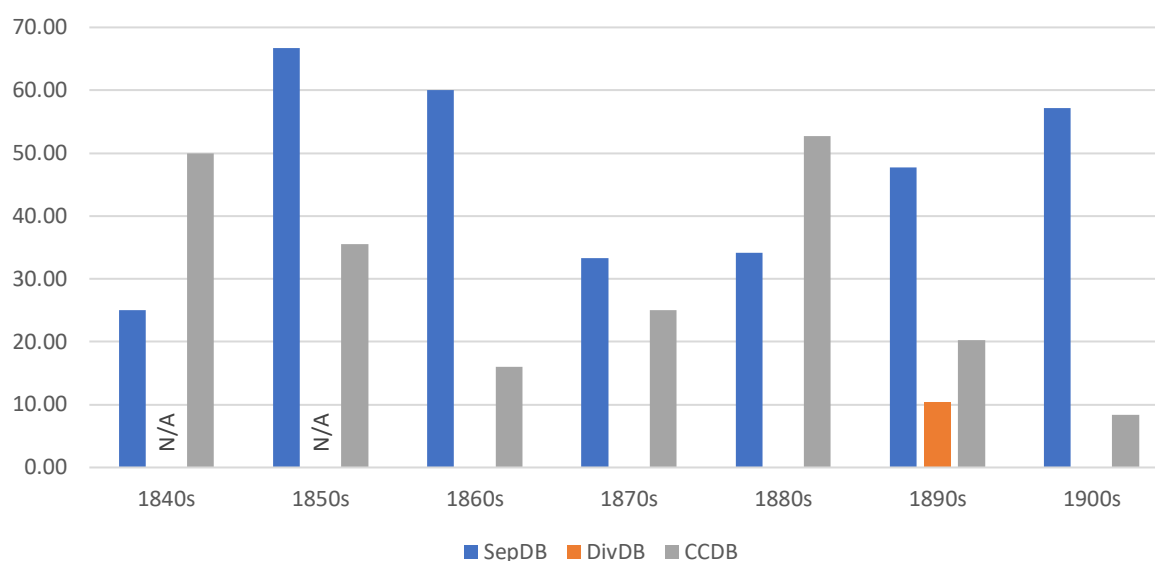


Figure 3.9 *Percentage of cases that reported behaviour type ‘abuse with object’, by decade*

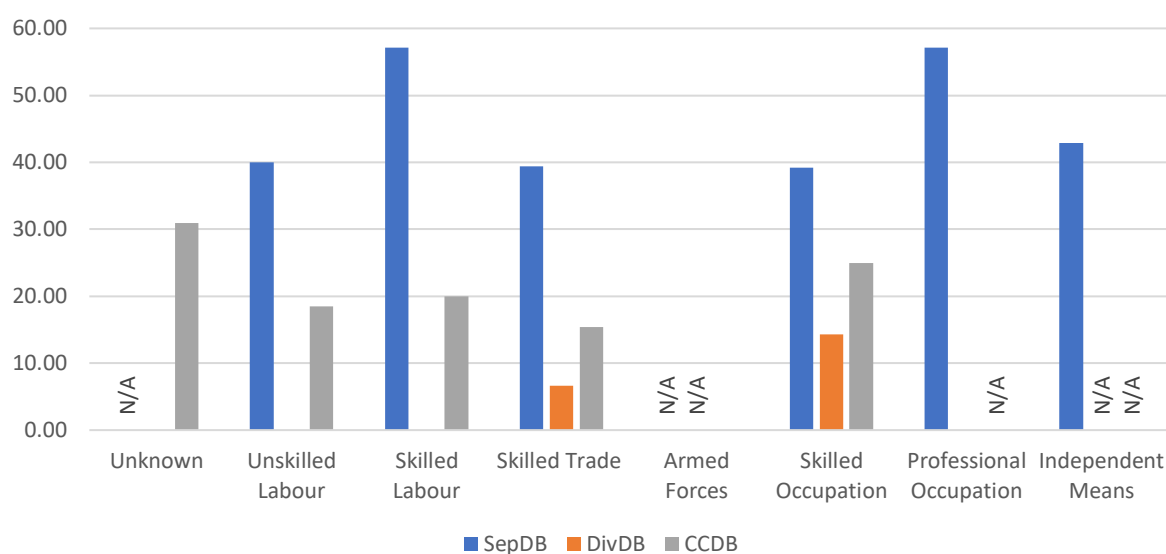


Figure 3.10 *Percentage of cases that reported behaviour type ‘abuse with object’, by husband’s occupation category*

Joanne Begiato has examined the “spaces and stuff” of marital abuse and her findings align with those of this thesis. As Table 3.1 shows, during incidents of abuse with an object, the object was more likely to have been an ordinary household item repurposed as a weapon. Begiato found the same situation in eighteenth-century England, where she observed “a variety

of objects were used as weapons, including mundane domestic things, occupational tools and symbols of discipline, alongside the obvious weapons like swords and guns”.²⁷ In the CCDB items with the potential to be lethal were most commonly used, for example pokers and knives.²⁸ In the SepDB the most commonly reported objects used to abuse victims were food and drink and moveable items of furniture, such as chairs or lamps.²⁹ In addition to these more commonly reported items though, there were a further 48 objects reported in only a handful of cases each, indicating that abusers snapped in a moment of crisis and made use of what was easily accessible in their surroundings. This was evident in the 1854 separation case of Janet Cochrane against Hugh Ferrier. While in the family home, Clippens, in early January 1854, Janet claimed that Hugh “threw the kitchen tongs at her, also chairs, bottles, jugs, and the soup pot, and in short anything that came in his way.”³⁰ In each of the databases, household items were the most regularly reported to have been used to abuse victims with. By comparison, Table 3.1 shows that work-related tools, weapons, and generic descriptions (e.g. ‘something sharp’) were much less commonly reported.

Table 3.1 Breakdown of object types reported in accusations of behaviour type ‘abuse with object’

Description	SepDB	DivDB	CCDB
Generic Description	7	1	2
Household Item	47	2	112
Work Item	2	1	4

Only a few attacks with an object appear to have been explicitly premeditated. Firewood manufacturer Daniel McKim returned to his home, in Hillington in the West of Glasgow, on the morning of the 26 January 1898, seemingly after having spent the night with his lover Kate Fleming. When his wife Sarah Stewart came to the front door, he stabbed her in

²⁷ Begiato, “Beyond the Rule of Thumb,” 10.

²⁸ See for example *Glasgow Herald*, 1 March 1877; *Glasgow Herald*, 2 June 1881; *Glasgow Herald*, 11 January 1897.

²⁹ See for example, NRS, CS46/1874/7/73, Summons; NRS, CS46/1896/6/121, Summons.

³⁰ NRS, CS239/F/28/14, Summons.

the leg with his pocket-knife.³¹ One possible explanation for the rarity of planned attacks with an object is that the research does not include homicides. Intentional attacks with weapons likely resulted in the death of the victim.

Unplanned attacks with objects could still be life threatening, or at least life altering. Ship pilot Richard Sweet Cruse struck Helen McDougall in the eye with a button hook and her sight was endangered.³² When book-keeper Daniel Kean hit his wife Jane Laven on the head with a ruler in his home in the summer of 1856, she almost died.³³ Whether serious injury was the attacker's intention is more difficult to discern.

Although the intention of physical attacks was often to injure or scare the victim in some way, occasionally it was about degrading them. Annie Wallace complained that her husband Thomas Daly, an insurance agent in Govan, was in the habit of taking food out of his mouth and throwing it at her.³⁴ Partially chewed food would not have been expected to hurt Annie, instead it would be fair to interpret this as Thomas' way of belittling her.

3.4 Venereal Disease

The most reported form of unreasonable physical behaviour with a sexual element was the communication of venereal disease. Venereal disease was mentioned in seven separation cases (5.74 per cent) and four divorce cases (8 per cent). Both separation and divorce cases began to report venereal disease in the 1870s, but the databases followed different routes from there on (Figure 3.11). Notably, only husbands were accused of communicating venereal disease in marriages that appeared before the CoS. Whether a husband had communicated the venereal disease knowingly or ignorantly to his wife, the behaviour was considered cruelty because of the negligence the act represented. Inevitably, venereal disease was also closely connected to adultery, though some husbands were reported to have been infected prior to marriage.³⁵

³¹ NRS, CS46/1898/10/48, Summons.

³² NRS, CS46/1887/12/112, Summons.

³³ NRS, CS/228/L/9/77, Summons.

³⁴ NRS, CS46/1898/5/44, Summons.

³⁵ See for example NRS, CS46/1885/12/50, Summons.

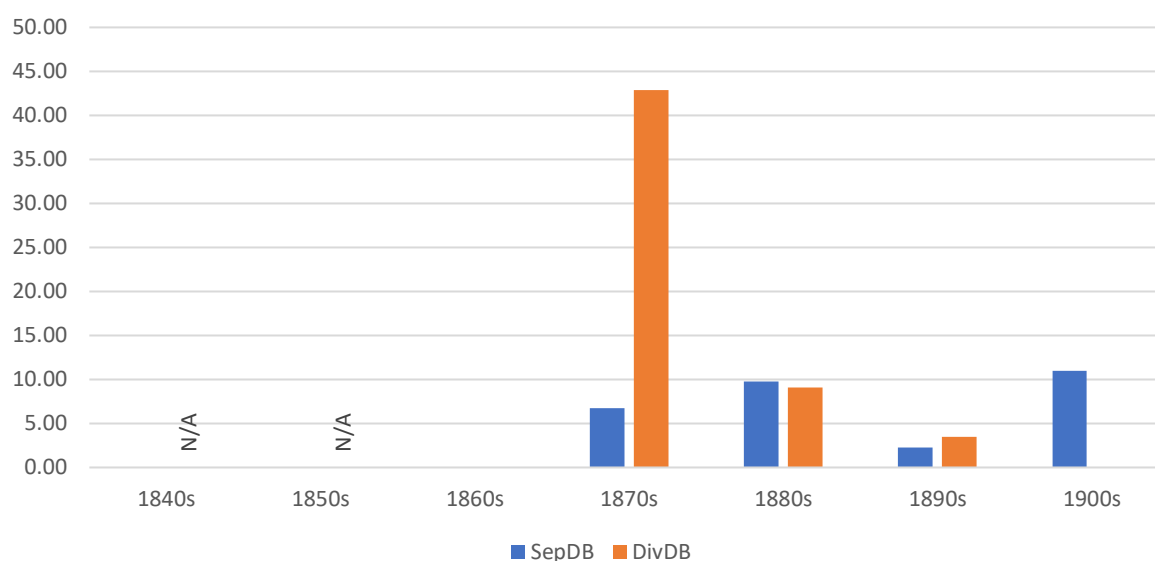


Figure 3.11 Percentage of cases that reported behaviour type ‘venereal disease’, by decade

(NB: there were no CCDB cases that reported this behaviour type)

The communication of venereal disease is naturally linked with matters of pregnancy. Catherine O’Neil maintained that the premature birth, and subsequent death, of her fourth child in December 1876 was caused by her husband David Phillips infecting her with venereal disease during her pregnancy.³⁶ Similarly, Alexandrina Whittet gave birth to a daughter, Mary McLaren, in February 1900. Three months later Alexandrina brought a separation suit against her husband Adam McLaren, a plumber. The final accusation in the Summons was that three-month-old Mary was suffering from congenital syphilis caused by her father.³⁷

Cases involving the communication of venereal disease also offer an interesting insight into female agency across the class spectrum. In May 1884 Mary Thomson noticed brown spots on her arms and chest and she mentioned it to her husband, Hugh Strain. Rather than advising Mary to seek medical attention, Hugh told her “to say nothing of it to any of their people.” Following her husband’s orders, she remained quiet about her symptoms for two months. By this point, they became too concerning to ignore and in July 1884 Mary went to a medical attendant in Glasgow. Surgeon John Burns recognised Mary’s symptoms – an ulcerated throat and mouth, eruptions on her body, and hair loss – to be signs of syphilis. He also found her general health to be poor and began treating her accordingly. What Dr Burns did not do was to

³⁶ NRS, CS243/5749, Summons.

³⁷ NRS, CS243/5149, Summons.

tell Mary what was ailing her. Instead, he wrote to Mary's father, Charles Thomson, about her condition. Charles then met with Mary and explained to her that she was suffering from syphilis. As a middle-class woman in 1884, it seems it was considered inappropriate for Mary to be informed directly of the venereal disease she was suffering from.

3.5 Marital Rape

There were two more physical behaviours with a sexual component reported to the CoS: rape and indecency. Rape in marriage was not conceivable in Victorian Britain because a husband had the right to intercourse with his wife regardless of her consent.³⁸ In Scotland, husbands only lost immunity from prosecution for rape in 1989.³⁹ However, Elizabeth Foyster and A. J. Hammerton have both found evidence of sexual violence in their studies of historic marital cruelty. As Foyster has argued, "[j]ust because there was no legal offence of marital rape, does not mean that sexual assault was not experienced, resisted or described in marriage".⁴⁰ As well as tracing explicit accusations of sexual cruelty, Foyster and Hammerton both theorised that evidence of sexual abuse could be derived from descriptions of other forms of unreasonable behaviour too. For Hammerton, it was the fact that violence so often took place while couples were in bed that implied "an obvious sexual background."⁴¹ Similarly, Foyster asserts that "[w]ithin marriage, violence in all its forms was sexualised" because marriage is a sexual relationship.⁴² Furthermore, Hammerton noted that "more obscure" charges of sexual cruelty were made by wives, including the forced use of 'French Letters'.⁴³

Hammerton also considered the evidence provided to the Royal Commission on Divorce and Matrimonial Causes (1853) by the Women's Cooperative Guild. This testimony provides the strongest indication of why sexual violence was so rarely reported in the CoS cases. Hammerton explained that the representatives gave evidence based on surveys of the members, which allowed them to be "most explicit on the hidden cruelty that these women would not recount to a magistrate, and for which there was no redress, that is sexual cruelty,

³⁸ Anna Clark, *Women's Silence, Men's Violence: Sexual Assault in England, 1770-1845* (London ; New York, 1987), 129.

³⁹ This was two years before the law changed in England and Wales (See: Clark, *Women's Silence, Men's Violence*, 1897).

⁴⁰ Foyster, *Marital Violence*, 2005, 37.

⁴¹ A. J. Hammerton, *Cruelty and Companionship: Conflict in Nineteenth-Century Married Life* (London, 1995), 108.

⁴² Foyster, *Marital Violence*, 2005, 37.

⁴³ Hammerton, *Cruelty and Companionship*, 110.

including marital rape, infection with venereal disease, and infliction of unwanted pregnancies followed by violent attempts to cause a miscarriage.”⁴⁴

Examples of sexual cruelty beyond the communication of venereal disease were very limited in the Scottish sources. Incidents took place, or originated, in a bedroom in 28 separation cases (22.95 per cent) and 2 divorce cases (4 per cent). If a sexual element might be derived from the location of an incident, it was not possible to corroborate this in the language of accusation. There were only two examples where it was possible to infer potential sexual assaults from the descriptions of another form of cruelty. Both examples came from separation cases. The first case was brought in 1882 by Catherine Bruce against George Hunter. In October 1882 Catherine was suffering from cancer, but on 20 October 1882 her George punched her so hard that she fainted. When this incident was conveyed in the Summons, it was stated that “he struck her with great violence on the face with his clenched fist”.⁴⁵ However, during the testimony, Catherine added that George:

Got a little excited that night. He came downstairs, and wanted me to come up. I told him that I could not go till I was right.⁴⁶

This description of the context for the assault seems deliberately obfuscated and the phrase “excited” appears to be a euphemism for sexually aroused. In simple terms, George summoned his wife for sex and became physically violent when she refused. The second case was that of Annie Stewart against Hugh Todd, brought in 1895. The Summons recorded that on the evening of the 22 November 1890, within their bedroom at 14 Stuart Street, Glasgow, Hugh and Annie had disagreed over a friend of Annie’s coming to stay with the family the following week. Hugh had given Annie a violent blow on the nose and it had bled profusely, “he thereafter held [Annie] down in bed for some time before he permitted her to wash away the blood”.⁴⁷ It is plausible that while Hugh held Annie in the bed (and did not allow her to clean away her nose bleed) he also raped her.

There was one explicit example of rape in marriage. However, the foundation for refusing consent – like Catherine Bruce’s potential refusal – was grounded in medical safety rather than the wife’s lack of consent. Jessie Alexander reported during her 1894 separation case that her husband, William Norquay Forbes, had, “more than once, insisted upon his rights

⁴⁴ Ibid., 50.

⁴⁵ NRS, CS246/900, Summons.

⁴⁶ NRS, CS246/900, Proofs.

⁴⁷ NRS, CS46/1896/1/71, Summons.

as a husband, when he knew the state of her health rendered it dangerous to submit to his embrace.”⁴⁸ The wording of this statement – whether decided by Jessie or her lawyer – made Jessie’s health the focus. Jessie distinctly did not complain that the intercourse took place without her consent. But perhaps Jessie understood that coating her complaint of rape in a language of medical harm was a way she could present the unreasonable behaviour and have it taken seriously. Rape in marriage was not the only complaint Jessie made regarding her husband’s sexual interests. She also described William as “a man of sensual and vicious character” and complained that he was in the habit of showing her “filthy and obscene pictures.”⁴⁹

Despite the scarcity of reports, these examples are telling. The decision to raise these behaviours was not a simple one. Two of the victims obfuscated their descriptions and only Jessie Alexander made her complaint of involuntary copulation plainly. Rape in marriage was a legal impossibility, but the harm to a wife’s health that forced intercourse could cause was something that the court might entertain. All three of the separation cases that included examples of physical assaults with a sexual aspect (beyond venereal disease) were brought by wives whose husbands were in the skilled and professional occupation categories. Further, the three cases were all raised in the 1880s and 1890s. These three women left no surviving personal papers that can offer insight into their private lives and suggest why they were willing, or able, or desirous, of recounting their experiences of sexual violence – actual or attempted – to the courts. However, Jessie Alexander – the most forthright victim – described herself in the opening of the Summons as an authoress. Both as Jessie A. Norquay Forbes and under the pseudonym Hermione, she published two novels, *John Gentleman, Tramp* (1892), and *The Story of Tatters* (1892).

3.6 Conclusion

Physical violence was a prominent feature in cruel marriages in the SepDB and the CCDB, and it was also present in the DivDB cases. With regards to class, husbands across the spectrum abused their wives with their bodies or with objects. Although the rate of abuse with the body was lower among the wealthiest husbands than the working- and middle-class husbands, it featured more than members of that class were willing to admit in the nineteenth century. And

⁴⁸ NRS, CS243/2386, Summons.

⁴⁹ NRS, CS243/2386, Summons.

it was *husbands* who were accused of physical cruelty. Certainly, wives could be physically cruel, but across the three databases they were never the perpetrator of physical cruelty in more than 6 per cent of cases.

Physical abuse was largely conducted to inflict injury on the victim and cause them pain. This chapter has also shown that pregnancy did not provide female victims with any respite from physical violence. Although the aim of physical cruelty was usually the injury of the victim, on some occasions – particularly those that involved food – the item used to abuse the victim would not have been substantial enough to injure them physically. Instead, the abuser's intention was to degrade their victim. While the abuser's intentions can be drawn from the surviving information, this chapter has shown that attempts to establish an abuser's reason for their cruelty is largely futile.

The communication of venereal disease was not a commonly reported form of cruelty. Less than one in ten consistorial cases included the accusation and because it was not criminal the accusation was never made in the CCDB. Despite this, it was the most reported form of physical cruelty with a sexual element. The three accusations of marital rape were deliberately vague, and it is necessary to read between the lines to infer complaints of forced intercourse. Further, where marital rape was mentioned, the complaint was coated in language of medical harm rather than dealing with issues of consent. Both the dearth of complaints and the focus on medical rather than mental harm were to be expected though; marital rape was a legal impossibility in Scotland until the late 20th century.

The following chapters will now consider the non-physical behaviours that victims considered unreasonable in marriage. Although physical abuses constituted the majority of criminalised forms of unreasonable behaviour, this thesis has found that they were rarely experienced in isolation. Instead, physical cruelty was just one part of a system of maltreatment that often involved a range of other unreasonable behaviours that have been underexplored to date.

Chapter 4 Non-Physical Cruelty

This chapter will cover the non-physical behaviours in marriage that caused distress. Although these behaviours did not always meet the threshold of ‘cruelty’ required for a separation and went beyond the act of adultery or desertion that warranted a divorce, they were widely reported by victims because they contributed to the system of maltreatment. Experienced in conjunction with legally recognised wrongs, these non-physical behaviours contributed to victims’ sense that their marriages were no longer tenable. Across the three databases, these behaviours were categorised as emotional or psychological forms of abuse. While some of these behaviours have been recognised by historians of different periods and locales, in this chapter they will receive focused attention in their own right. After explaining the pervasiveness of non-physical abuse at a macro-level, this chapter will delve into the specific types of behaviours. To begin, behaviours that were unreasonable with regards to expectations of romance and domesticity will be addressed. Adultery will be studied, but so too will the less explored issues of spouses who failed to show affection to their partner or failed to uphold their end of the marital bargain. Together, this exploration of romance and domesticity will show that Victorian spouses expected marriages to be companionate. Unreasonable marital behaviours associated with children will then be considered to conclude the discussion on emotionally unreasonable behaviours. The second section of this chapter will address psychologically unreasonable non-physical behaviours. First, alcoholism and problems associated with the disease will be considered, before an exploration of controlling behaviours more generally.

4.1 Broad Reporting Patterns

Non-physical emotional and psychological behaviours constitute one of the largest differences between the civil and criminal court cases. Although almost every separation and divorce case mentioned at least one form of this unreasonable behaviour, only one in five criminal cases reported such behaviours. The picture is one of significant difference between the legal systems in terms of change over time too. As Figure 4.1 shows, emotional and psychological abuses were reported consistently in all but one separation and divorce case. Two thirds of criminal court database (hereafter, CCDB) cases included such incidents (4 cases) in the 1840s, but the rate dropped below one third for the rest of the period. Rather than indicating a reduction in the

prevalence of non-physical cruelty, this drop was instead likely due to the limited space in newspapers, which resulted in brief reports of criminal proceedings.

The single cases in both the separations database (hereafter, SepDB) and the divorce database (hereafter, DivDB) that did not report any form of emotional or psychological abuse came from the skilled occupation category (Figure 4.2). In the CCDB, reported perpetrators of non-physical cruelty were most likely to come from this social group; however, this category was comprised of four couples and so the data is not representative. Thus, Figure 4.2 shows that CCDB couples from the respectable working classes were less likely to include emotional and psychological abuses than the least well-off couples.

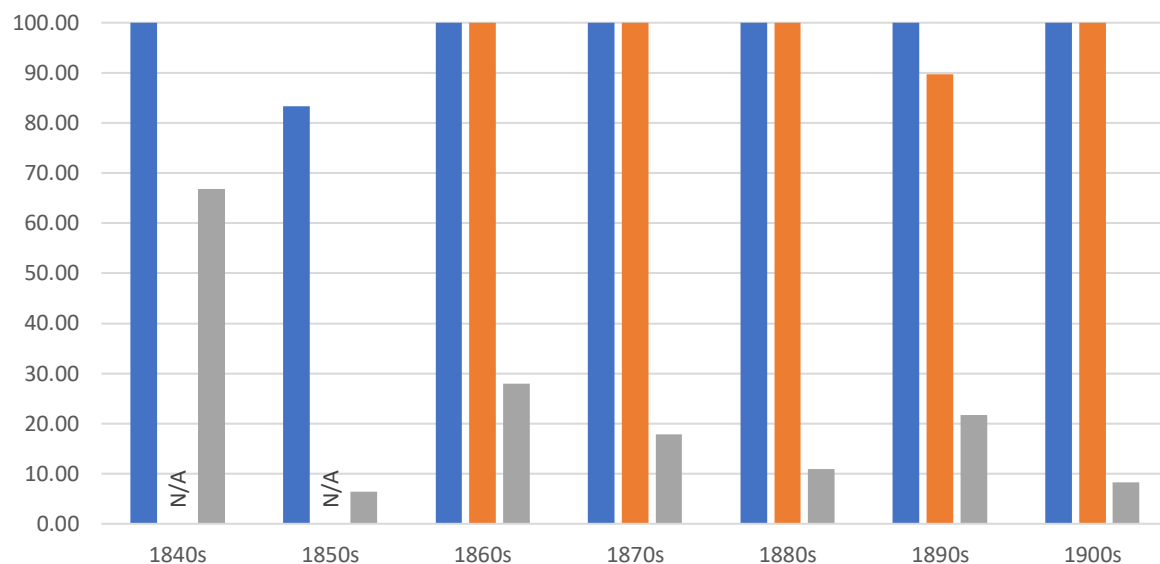


Figure 4.1 Percentage of cases that reported behaviours from the categories ‘emotional’ or ‘psychological’, by decade

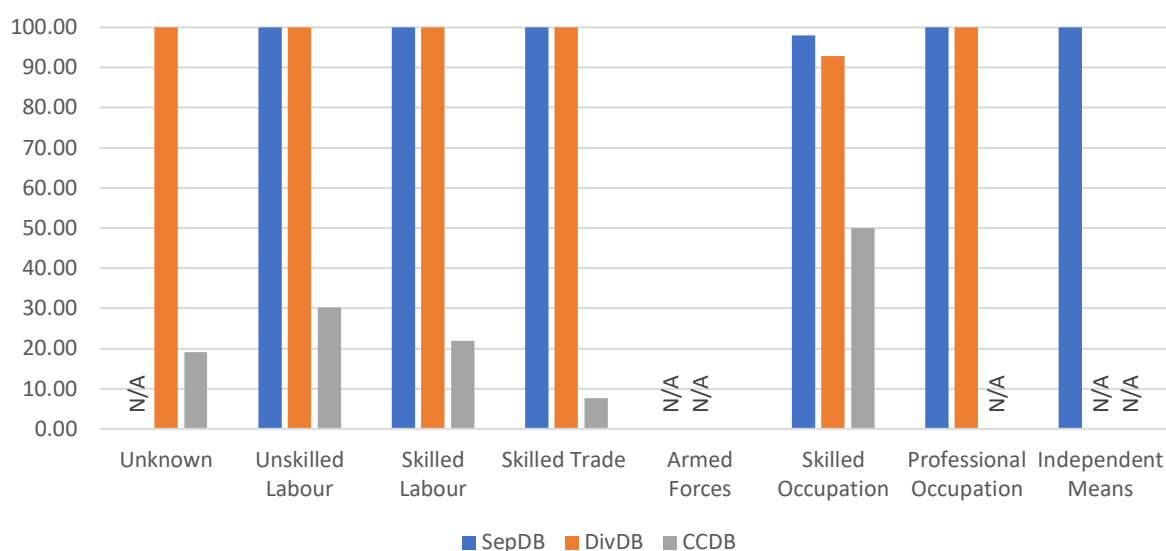


Figure 4.2 Percentage of cases that reported behaviours from the categories ‘emotional’ or ‘psychological’, by husband’s occupation category

4.2 Romance & Domesticity

In this section the emotionally unreasonable behaviours connected to aspects of a relationship in marriage will be considered. As well as the legally defined wrong of adultery, cruel behaviours that did not have the same hereditary consequences – and so did not warrant divorce – will also be addressed. With regards to romantic expectations that husbands and wives held, the unreasonable behaviours of flirtation, lack of affection, and the keeping of late hours will be explored. Finally, accusations that wives neglected their household duties will be tackled. Rather than a romantic expectation, this was a domestic expectation that husbands could hold.

4.2.1 Adultery

Under Scots law, adultery was legally defined as “voluntary sexual intercourse between a married person and a person of the opposite sex, not being the marriage partner, during the subsistence of the marriage”.¹ Because adultery was explicitly defined in law as unreasonable and worthy of legal intervention, the language used to report it was usually standardised and impersonal. As such, the feelings of those with adulterous spouses are not usually easily

¹ Clive, *Husband and Wife*, 446.

reachable in the historical records. Where the accusations varied was in their form, their connections to sex work, and in the way that the victim became aware of the fact. A victim could report their spouse's adultery because they considered the act of adultery unreasonable, or it may have been a means to an end because they considered other behaviours in the marriage unreasonable. Thus, it is not possible to explicitly argue that Victorian Glaswegians expected faithfulness from their spouse based on the reports of adultery alone. However, reports of other behaviours discussed below (flirtation, lack of affection, and late hours) suggest that a lack of fondness in marriage was considered unreasonable, and this was certainly also signalled by an affair. While adultery was reported in the Court of Session (hereafter, CoS) civil court cases, it was not mentioned in the criminal court cases because there were no criminal repercussions for adultery. Civilly, if a spouse could prove adultery, they were entitled to apply for either a separation or a divorce. If a female pursuer was successful in a separation case, then her husband would usually be ordered to aliment her until either of the parties died. While a successful divorce did not allow for the wife to be alimented, she was free to remarry. Adultery, along with desertion, was a primary justification for divorce. 70 per cent (35 cases) of divorce cases involved an accusation of adultery. Although adultery was a valid argument for a separation, these cases were more commonly brought on the grounds of cruelty. Thus, reports of adultery were lower in the SepDB: 23.77 per cent of separation cases, or 29 cases, reported this behaviour.

With the exception of the 1850s when there were no reports of adultery, and the 1900s when 11 per cent of cases reported adultery, adultery featured in at least 20 per cent of separation cases each decade, and was slightly higher in the 1860s and 1890s. In the DivDB, reports of adultery were always present in at least half of cases brought each decade. Adultery was reported by couples in all occupational categories in both databases.

There were three forms of adultery reported in divorce and separation cases: longer-term affairs with a single paramour, a short-term affair or one-off incident with a single partner, and repeated short-term affairs or one-off incidents with different partners. As Table 4.1 shows, cases were rarely based on a single incident of adultery. Despite the law facilitating divorce on the grounds of one instance of infidelity, victims of such behaviour appear to have been willing to forgive the indiscretion for the greater good of the marriage.² Certainly two pursuers in separations that reported adultery and two pursuers in divorce cases that included accusations of adultery reported forgiving their adulterous spouse after the first time they committed

² Mackay, *Manual of Practice in the Court of Session*, 475.

adultery.³ The two formats that conveyed a pattern of unreasonable behaviour – a long-term affair or serial adultery – were much more commonly reported. Furthermore, Table 4.1 also shows that multiple formats of adultery were reported in four separation cases and six divorce cases. One separation case that included accusations of adultery in two formats was that of Elizabeth Robertson against Alexander MacPhail.

Table 4.1 Format of behaviour type ‘adultery’

Description	SepDB		DivDB	
	No. of Cases	Percentage	No. of Cases	Percentage
Short-Term or One-Off Affair with Single Partner	1	3.49	4	11.43
Serial Adultery with Different Partners	16	55.17	21	60
Long-Term Affair with Single Partner	14	48.28	14	40
Format Undetermined	2	6.9	2	5.71
Total No. of Cases That Reported Adultery	29	-	35	-

NB: A single case could report more than one incidence of adultery so it could include both serial adultery and long-term affairs, hence the number of cases does not equal the total and the combined percentages equal more than 100. There were no CCDB cases that reported this behaviour type.

Alexander took advantage of his occupation as a ship master – sailing between Scotland and New Zealand – to commit adultery. During a trip he made in 1874 he was unfaithful to his wife with two women: a Miss Hill and a Miss Kersey. In April 1877 Alexander admitted these

³ National Records of Scotland, Edinburgh (hereafter, NRS), CS46/1895/5/77, Summons; NRS, CS46/1896/12/54, Summons; NRS, CS46/1896/12/98, Summons; NRS, CS46/1900/3/24, Proofs.

affairs to Elizabeth and expressed regret for his wrongdoings. These shorter dalliances were followed by a more significant affair with a Miss Bridges. Alexander began his relationship with Miss Bridges while sailing his usual route in 1879. However, their journey to New Zealand was disrupted when the ship was wrecked in December 1879. Alexander then took Miss Bridges to London and began to pay her £25 a year and kept her as his mistress. Elizabeth – Alexander’s legal wife – was unaware of Alexander’s affair until she read a letter that arrived at their home in Scotland in October 1883. The letter, from the admiralty, praised Alexander’s efforts during the shipwreck in 1879, but it also mentioned his wife being onboard. Elizabeth, knowing that she had not been on board the wrecked ship, was thus unwittingly informed of her husband’s adultery. By the time of the 1884 separation case – almost five years after the affair had begun – Alexander was still living in London and passing off Miss Bridges as his wife while legally married to Elizabeth.⁴

Alexander’s five-year affair was certainly not the longest reported affair. Daniel Strathern left his wife of ten years, Margaret Hendry, and took up residence with his paramour Margaret Thomson in 1864. Shortly afterwards, Margaret Thomson was delivered of twin girls, and some years later a son followed. It was not until 1891, 27 years later, that Margaret Hendry sought legal retribution for Daniel’s adultery. In those intervening years Margaret Hendry had supported herself as a housekeeper, but by 1891 she was 65 years old. Perhaps her age meant she was less able to earn a sufficient living and so she sought a legal solution to her situation. This theory is strengthened by the fact that Margaret Hendry applied for a separation rather than a divorce. Although Daniel’s adultery entitled Margaret Hendry to both a divorce and separation, only a separation would compel Daniel to support her financially.⁵

Table 4.1 shows that in the SepDB both forms of adultery were reported almost equally, though in the DivDB adultery was more commonly alleged to have been committed in the form of one-off or short-term acts of intercourse with multiple partners. James Gilliland named six men that he believed his wife Mary Shearer had committed adultery with. More generally he claimed that she was often visited by men or brought men into her home at late hours. Further, she was supposedly in the practice of sending her servant and child to the kitchen while the men were in the house and having them stay there until the men left. On these occasions, James averred, Mary committed adultery. While some of the examples were light on details, in others James had specific dates, and in one he made note that the man who visited Mary arrived by

⁴ NRS, CS46/1884/7/36, Summons.

⁵ NRS, CS243/6780, Summons.

bicycle.⁶ While Mary Shearer and James Gilliland were living separately when she committed adultery, Mary Longmuir and James Buchanan were still living as husband and wife when he was repeatedly unfaithful. Unable to bring people back to his home as Mary Shearer had, James Buchanan had liaisons with numerous women in the cellar of his barber shop.⁷ Executive engineer John Adam also made use of his ability to work away from the home to meet with women. His wife Henrietta Auld stated that he took a small house near their family home under the pretence of using it as a workshop, but instead he “made it a resort for meeting with women for improper and adulterous purposes”.⁸

A common theme in accusations of adultery was sex work. Adultery was committed with sex workers in 8.2 per cent of all separation cases (10 cases, 35 per cent of the separations that reported adultery). In the DivDB 6 per cent of all divorces involved adultery with a sex worker (3 cases, 8.57 per cent of the divorces that reported adultery). Adultery with a sex worker could be doubly unreasonable because of the perceived risk of venereal disease that was associated with encounters with sex workers.⁹ During her 1897 separation case, Annie Wotherspoon complained that throughout their married life, her husband John Forbes had “been in the habit of consorting with prostitutes, and has on several occasions suffered from venereal disease”.¹⁰ Interestingly, Annie did not report that her husband had infected her with venereal disease. Perhaps the couple were rarely intimate after John began visiting sex workers, or perhaps there was a particular stigma around venereal disease that made Annie feel unwilling to fully disclose her situation.

In the DivDB, five victims also accused their spouse of having committed adulterous intercourse as a sex worker (10 per cent of all divorce cases, 14.29 per cent of divorces that reported adultery). After warehouse worker Thomas McLintock and his wife Mary Dalglish separated, Mary was said to have turned to sex work to make a living. Thomas cited the fact that Mary was found by the police during a raid on 102 Bath Street – a brothel run by Margaret Bethell or Dick – as evidence of her being a sex worker, and ultimately of her adultery.¹¹ All five of the people who accused their spouse of turning to sex work were male. Two had skilled labour occupations, two had skilled trade occupations, and in one case the husband’s occupation was unknown.

⁶ NRS, CS46/1897/6/92, Summons.

⁷ NRS, CS46/1896/12/98, Summons.

⁸ NRS, CS243/54, Summons.

⁹ Lucy Bland, “The Married Woman, the ‘New Woman’ and the Feminist: Sexual Politics of the 1890s,” in *Equal of Different: Women’s Politics, 1800-1914*, by Jane Rendall (Oxford, 1987), 151.

¹⁰ NRS, CS46/1898/1/48, Summons.

¹¹ NRS, CS46/1896/1/47, Summons.

Incidences of adultery that involved sex workers were usually one-off interactions, but given the transient nature of sex work, adultery with or as a sex worker could lead to a longer-term association. This was the case in one of the 10 separation cases that reported adultery with a sex worker, and also in one of the five divorces that included an accusation of adultery as a sex worker. Margaret Young left her husband, Hugh Wylie, in August 1895 because of his violent treatment of her, his regular absences from their home, and his suspected adultery. While Margaret went to live with her nephew Thomas Harrison, Hugh set up home with a woman called Agnes Anderston. Agnes was known by the police to be a sex worker, and she was the woman with whom Thomas was suspected of committing adultery.¹² Agnes Brown turned to sex work to support herself after she and her husband James Littlejohn separated in November 1874. Through her sex work Agnes met chemical worker John Armstrong. They began to live together in October 1878 and were still doing so when Agnes' legal husband James Littlejohn brought divorce proceedings in 1880.¹³

Almost all the reported incidents of adultery in this research were between heterosexual couples. Only William Cunningham was accused of having an extra-marital homosexual relationship. Under Scots law this affair was not legally considered adultery, but sodomy. There was no consistorial resolution to this grievance until the Divorce (Scotland) Act 1938 included sodomy as a ground for divorce.¹⁴ The condescendence in Robina Currie's 1840 separation case stated that from Martinmas 1835 until Whitsunday 1836:

in utter disregard of the duties of a husband and a father, and in violation of every natural and proper feeling [William Cunningham] took into his confidence and made a companion of his own ploughman, named William Arthur, and carried this intimacy so far as to make Arthur his bedfellow.¹⁵

Although the term bedfellow does not necessarily imply a sexual relationship, the context suggests that their relationship was at least an emotional one that went beyond the boundaries of friendship that a bedfellow might designate. These were the words chosen by Robina's legal team to describe William's behaviour. While we cannot assume that Robina held the same scandalised views, the inclusion of such inflammatory language is important. When heterosexual adultery was criticised, it was usually on the grounds that the adulterer had shown

¹² NRS, CS46/1895/12/35, Summons.

¹³ NRS, CS46/1880/10/52, Summons.

¹⁴ Clive, *Husband and Wife*, 534.

¹⁵ NRS, CS228/C/27/9, Summons.

disregard for their marital vows. This wording implies that William's actions were considered far more heinous. For Robina, the unreasonable nature of William's behaviour went beyond him taking another man as his potentially sexual partner. She also complained that, whenever her husband left their home at Craigends, Renfrewshire, "he entrusted [William Arthur] with the charge of the affairs and the keys of his premises".¹⁶ By giving William Arthur control of the management of the household, William Cunningham was, in part, replacing his wife. There were other wives who reported having their position in the household interfered with and this will be discussed below.

With all these forms of adultery in mind, it is worth considering how the victims discovered this adultery and tried to prove it in the CoS cases. If proven, a single act of adultery entitled the pursuer to a divorce or separation, and it was up to the wronged spouse which avenue they took: while a separation entitled the wife to an aliment, divorce enabled both parties to remarry. The Summons made clear how the pursuer had become aware of their spouse's adultery in 22 of the 35 divorces that cited this offence, and 23 of the 29 separations. As Table 4.2 shows, the presence of illegitimate children was a useful indicator that adultery had occurred. In particular, the adultery in seven divorces was discovered because the allegedly adulterous wife had borne illegitimate children (in one of those cases she was also cohabiting with a man who was not her husband). In the 1899 divorce case of Robert Young against Mary Ann Findlay, Robert followed this argument and claimed that Mary Ann had become pregnant by another man. The couple had separated in May 1897, and both parties accused the other of cruelty before this date. Robert alleged that Mary Ann had a violent temper and was an alcoholic, while Mary Ann accused Robert of physical abuse and cited an incident in July 1896 when the police arrested him for an assault on her. Robert claimed they had agreed to separate, but Mary Ann maintained that Robert had deserted her. After the separation, Mary Ann took a position as a domestic servant in the home of Kilmarnock minister William Dunnet. In his Summons, Robert stated that Mary Ann brought men into William Dunnet's house and that she would stay out late at night. These claims painted Mary Ann as a woman of loose morals and laid the groundwork for the crux of his case: that Mary Ann had become pregnant by one of these men. Although pregnancy would normally be a safe way of proving adultery, this case was different because there was no illegitimate off-spring, Mary Ann never gave birth. While Robert alleged that Mary Ann's illegitimate pregnancy ended in miscarriage, Mary Ann herself stated that she had never been pregnant at all. She explained that her swollen belly, which gave

¹⁶ NRS, CS228/C/27/9, Summons.

her the appearance of pregnancy, was caused by a womb disorder. Lord Kincairney heard the case and he ruled that Robert had not proven his averments and Mary Ann was assoilzied.¹⁷

Table 4.2 Ways that adultery was proven by the accuser

Description	SepDB		DivDB	
	No. of Cases	Percentage	No. of Cases	Percentage
Admitted	4	17.39	3	13.64
Because an illegitimate child was fathered	1	4.35	0	0
Boasted	1	4.35	0	0
Admitted/Did Not Deny When Challenged	1	4.35	1	4.55
Caught (in the act or in incriminating circumstances)	6	26.09	5	22.73
By Victim	4	17.39	2	9.09
By Children of Marriage	0	0	1	4.55
By Police	0	0	1	4.55
By Friend of Victim	0	0	1	4.55
Cohabits with Someone Else	9	39.13	9	40.90
And has borne illegitimate children	2	8.70	1	4.55
And has fathered illegitimate children	1	4.35	6	27.27
Discovered correspondence proving a relationship	1	4.35	0	0
Found by Police to be a Sex Worker	0	0	2	9.09

¹⁷ NRS, CS46/1900/5/81, Summons; NRS, CS46/1900/5/81, Defences; NRS, CS46/1900/5/81, Interlocutor's Sheets.

Has borne illegitimate children (outside of cohabitation)	0	0	6	27.27
Has fathered illegitimate children (outside of cohabitation)	1	4.35	0	0
Made to pay aliment	1	4.35	0	0
Informed by Someone	0	0	1	4.55
Informed by Someone Unknowingly	1	4.35	1	4.55
Paramour Appeared as Witness for Victim	0	0	1	4.55
Private Detective	1	4.35	0	0
Venereal Disease	3	13.04	1	4.55
Visible based on Clothing	1	4.35	1	4.55

(NB: there were no CCDB cases that reported this behaviour type)

4.2.2 Flirtation

If adultery, legally defined, was the act of consensual intercourse between a married person and someone who was not their spouse, a number of non-physical behaviours associated with the courtship of a married person and their paramour did not meet this definition but were still considered unreasonable in marriage. Flirtation – either accompanied or unaccompanied by sexual relations, or in incidences where intercourse could not be proven – was complained of by victims in civil court cases. In the DivDB 20 per cent of cases (10 cases) reported flirtation, while in the SepDB the rate was 14.75 per cent, or 18 cases.

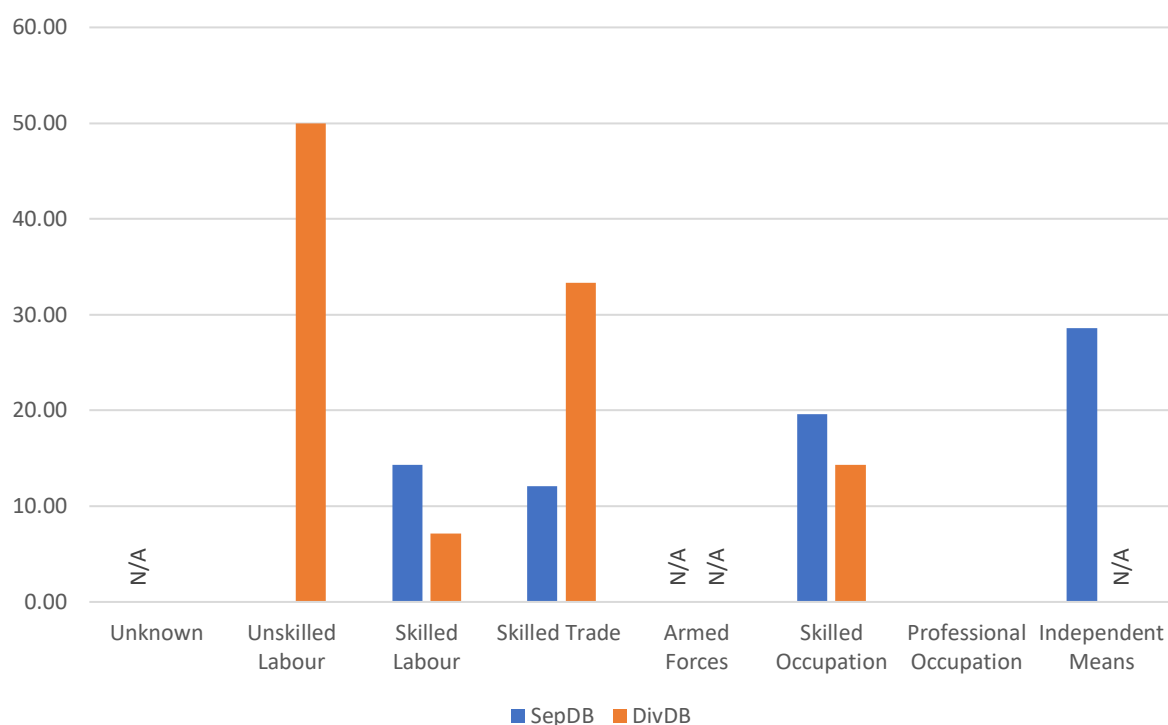


Figure 4.3 Percentage of cases that reported behaviour type ‘flirtation’, by husband’s occupation category

(NB: there were no CCDB cases that reported this behaviour type)

In the SepDB, flirtation was more likely to be reported by couples higher up the occupational scale; whereas in the DivDB less-well-off couples were more likely to include reports of flirtation in their cases (Figure 4.3). Reports of flirtation were made in two of the four separation cases brought in the 1840s. As the number of cases raised grew between the 1850s and 1890s, the rate fluctuated between 10 and 20 percent of cases. In the 1900s, where the number of cases was reduced again because there were only two years’ worth of cases, no separation cases reported unreasonable flirtatious behaviours (Figure 4.4). Reports of flirtation in the DivDB appeared in the 1860s, 1880s and 1890s. The substantial drop in the rate of reporting is not significant and instead a product of the small number of sampled cases: there were only two sampled cases in the DivDB brought during the 1860s, compared to 11 and 29 in the 1880s and 1890s respectively.

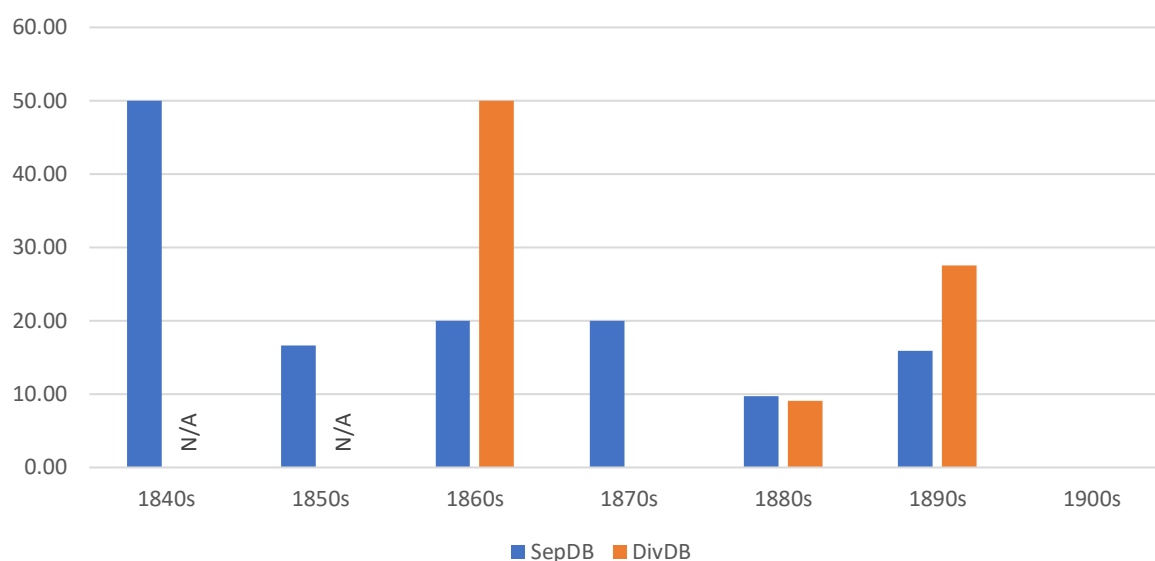


Figure 4.4 Percentage of cases that reported behaviour type ‘flirtation’, by decade

(NB: there were no CCDB cases that reported this behaviour type)

Flirtation could be reported alongside accusations of adultery, or in cases where adultery could not be proven but the pursuer felt that their spouse was in an inappropriately close relationship with another person. In the DivDB, all but one of the 10 cases that included accusations of flirtation were brought alongside a charge of adultery. By comparison, half of the 18 cases that included an allegation of flirtation in the SepDB also included an accusation of adultery, and half did not. In the cases where flirtation accompanied adultery, the flirtation likely bolstered the adultery accusation because it revealed the fuller nature of the adulterer’s lack of affection for their spouse. In the cases where flirtation was reported independently of adultery, it can more clearly be considered an unreasonable behaviour in its own right.

One of the most explicit examples of flirtation is found in the 1876 separation case of Mary Ann Irving against William Steel. Flirtation began to appear on Mary Ann’s list of complaints after they hired the servant Euphemia Proctor in the mid-1860s. William and Euphemia began to refer to each other as “Willie” and “Phemie”, which Mary Ann considered to be “undue familiarity”. Mary Ann reported that William and Euphemia spent hours alone together in the garden, particularly in March 1874 during a family holiday to the island of Millport. William also “treated [Euphemia] lavishly” and gave her gifts of money. Mary Ann threatened to leave her husband on account of his behaviour with Euphemia in January 1875. William let Euphemia leave their service, but not before he had gifted her a patent gold level

watch and a trunk to mark the occasion. This was not the end of William and Euphemia's relationship though. William rented a room for Euphemia in lodgings and he visited her there three or four times each week, spending almost every Sunday with her.¹⁸ While Mary Ann had no proof of adultery, she clearly had significant emotional wrongs to complain of.¹⁹

In the DivDB the split between men and women who complained of flirtation was almost even (6:4 female:male), but in the SepDB wives were more likely to accuse their husbands of flirtation (13:5 female:male).²⁰ The descriptions of flirtation made by husbands and wives differed in a significant way though. When wives were accused of flirtation by their husbands the accusations were more vague and sounded much less like courtship. For example, during their 1865 separation case, ship-captain Alexander MacQueen complained of his wife's behaviour when they were living in Ardrossan in 1864. Alexander stated as part of his defence:

her conduct with other men at this time was such as to excite uneasiness and suspicion in the mind of the defender.²¹

Alexander had no specific occasions to point to, but he felt that his wife was not acting in the way that a wife should. James Gilliland was unusually descriptive of his wife Mary Shearer's wrongdoings during his 1897 divorce case, but the behaviours still did not come close to the examples of courtship that were described by wives who reported flirtation. Instead, James' allegations seem to indicate his desires to control his wife's behaviour. Mary and James lived separately from August 1893 and both blamed the other for the breakdown of their marriage. Alongside an accusation of explicit adultery, James complained that Mary was in the habit of sitting at the windows of her lodgings and smoking cigarettes in full view of the passengers passing in the cars. What was more, she would dress in an attractive manner and wore "false hair of a light colour" while doing so.²²

Accusations of flirtation could be brought alongside allegations of adultery or on their own. In the case of the latter, accusations of flirtation show that many spouses considered their partner to have been unfaithful without meeting the intercourse threshold. Glaswegian Victorians expected emotional honesty and romantic faithfulness as well as sexual faithfulness.

¹⁸ NRS, CS243/6557, Summons.

¹⁹ Mary Ann Irving died of tuberculosis in March, 1877 (possibly before the conclusion of the separation case). William Steel and Euphemia Proctor married in June 1878.

²⁰ NRS, CS46/1895/5/77, Summons.

²¹ NRS, CS46/1865/7/147, Defences.

²² NRS, CS46/1897/6/92, Summons.

4.2.3 Lack of Affection

Even if a spouse was not unfaithful, they might not have shown their partner enough affection. This was not a commonly reported behaviour. It featured in 10.66 per cent of separation cases (13 cases), in just one divorce cases brought in the 1900s (2 per cent of cases) and in no criminal court cases. In the SepDB lack of affection was reported in half of cases in the 1840s (2 cases). As the number of cases brought each decade grew, the proportion that included reports of this behaviour was never more than 14 per cent (Figure 4.5). Lack of affection was reported most in the independent means category of the SepDB, and not at all by the unskilled labour category (Figure 4.6). Notably, lack of affection was primarily reported by wives: in the sample of separations and divorces, there was only one husband who claimed a lack of affection.

Analysis of lack of affection complaints reveal some of the expectations people had of emotional support in marriage. Agnes Crawford complained in 1846 that her husband had not treated or entertained her, as she felt was his duty to do.²³ In 1854, Hugh Ferrier complained in his defences that he was “in no way studied or attended to”.²⁴ Mary Keir reported in 1876 that her husband Peter MacFarlane refused to sit in the same pew as her at church; that sometimes he even refused to sit in the same room as her; and that he would not walk outside with her. To Mary, Peter’s behaviour “denied her all the privileges of a wife”.²⁵ Complaints of lack of affection confirm what others have observed: that marriage was more than an economic union.²⁶ People expected to enjoy the companionship of their spouse and for companionship to be willingly afforded. To neglect your spouse’s emotional requirements – even if your affections were not redirected to another – was unreasonable.

²³ NRS, CS239/R/39/3, Summons.

²⁴ NRS, CS239/F/28/14, Defences.

²⁵ NRS, CS243/4883, Summons.

²⁶ Hammerton, *Cruelty and Companionship*, 82.

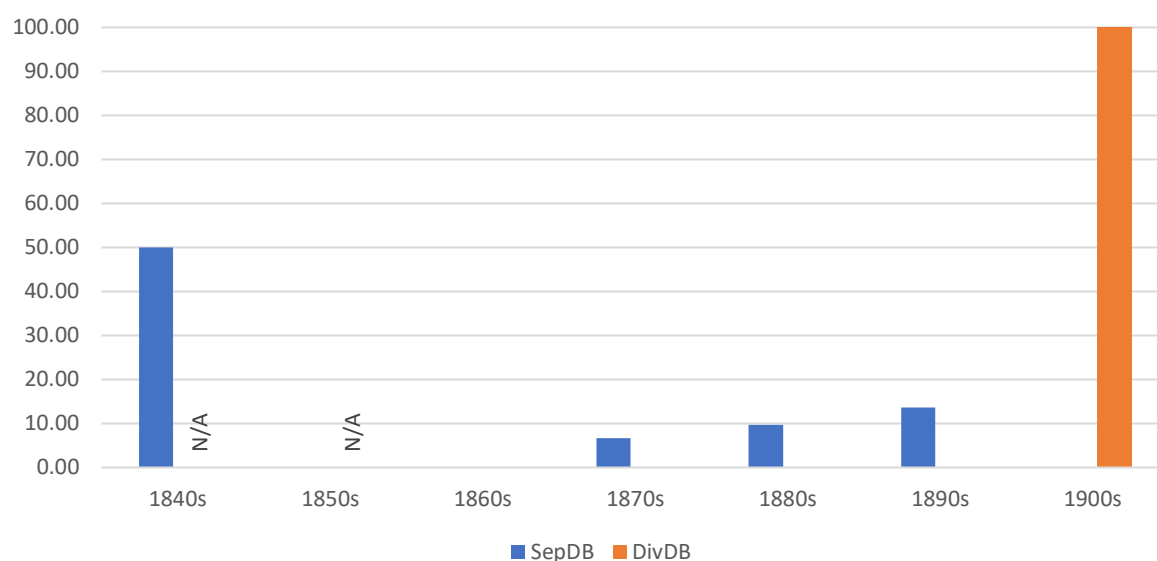


Figure 4.5 Percentage of cases that reported behaviour type ‘lack of affection’, by decade

(NB: there were no CCDB cases that reported this behaviour type)

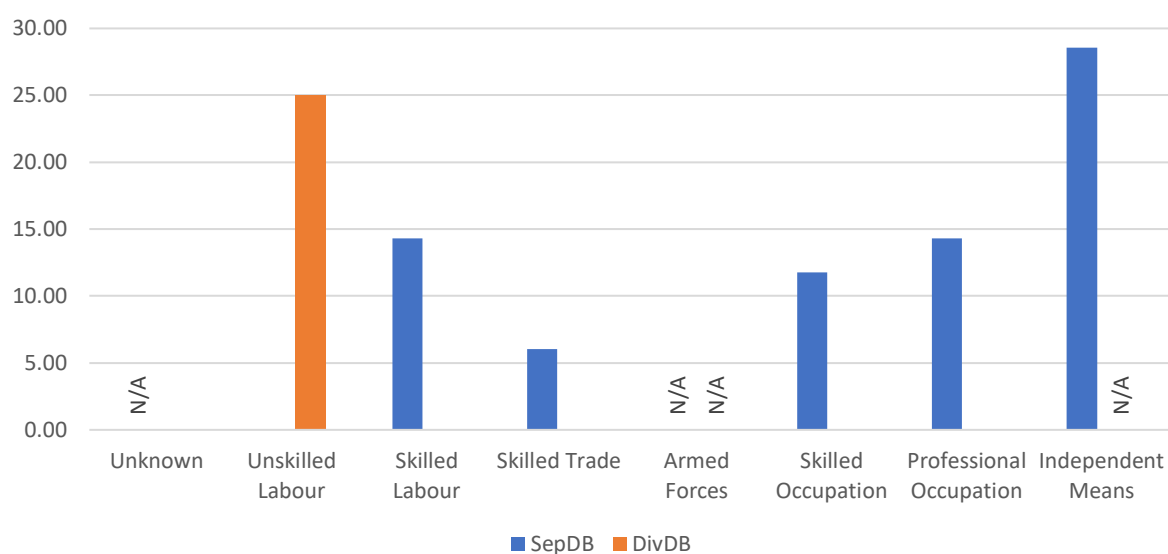


Figure 4.6 Percentage of cases that reported behaviour type ‘lack of affection’, by husband’s occupation category

(NB: there were no CCDB cases that reported this behaviour type)

4.2.4 Late Hours

One explicit form of unreasonable behaviour that signalled a lack of affection was keeping late hours. Hammerton considered this behaviour – which he observed in the 1863 Baker divorce – to reflect the “deeply felt and conflicting understandings of mutual obligation in marriage”.²⁷ Among the Glaswegian separation cases 12.3 per cent, or 15 cases, reported that a spouse would regularly return home unreasonably late. In the DivDB nine divorces, or 18 per cent of cases, claimed that a spouse kept late hours. Cases from each of the occupational categories reported late hours in the SepDB. In the DivDB the behaviour was reported by cases from all occupation categories except the professional occupation category. This behaviour first appeared in separation cases in the 1850s, but as Figure 4.7 shows, it was more consistently present in cases from the 1870s onwards. In the DivDB also, it was later cases that included accusations of this behaviour.

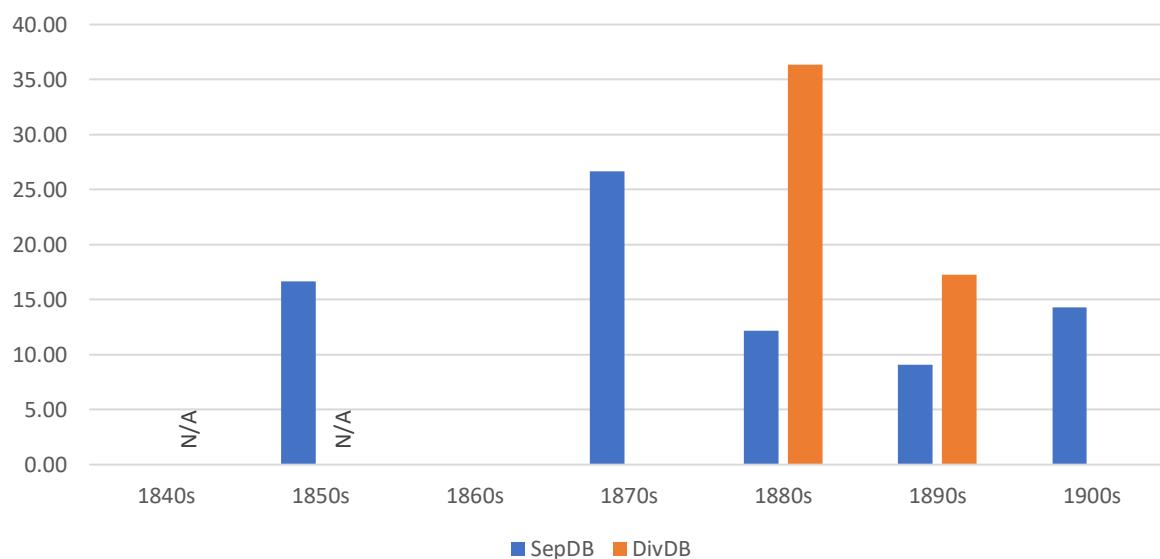


Figure 4.7 Percentage of cases that reported behaviour type ‘late hours’, by decade

(NB: there were no CCDB cases that reported this behaviour type)

The case of *Jessie Loudon ag. William Watson Jr.* included exceptionally detailed accusations of late hours, and it provides useful evidence of the expectations and fears that

²⁷ *Ibid.*, 112–13.

spouses held. William would often, and particularly during the first year of his marriage, not come home all night. His wife Jessie explained in her testimony that:

On these occasions [William] would ask me if I thought he had been staying with anyone; and once he said, ‘do you know who I slept with last night?’²⁸

William’s words taunted his wife and implied he had been adulterous. While other victims did not include such explicit suggestions of additional unreasonable behaviours, such possibilities could have crossed the victim’s mind when their spouse stayed out late, or all night. Certainly, the behaviour highlighted a distinct divergence in the expectations of married life in some relationships.

4.2.5 Neglect of Household Duties

According to codes of domesticity, while husbands toiled and earned a living for the family it was a wife’s job to ensure that the home was comfortable, and meals were provided. A husband’s refusal to provide has been classed as a form of economic abuse and will be discussed in Chapter Five. A wife’s failure to attend to household duties can be regarded as a form of unreasonable emotional behaviour.

Husbands complained about their wives’ neglect of domestic duties in 9.84 per cent of separation cases (12 cases) and in 12 per cent of divorce cases (6 cases). Because there were no criminal repercussions for this transgression of ideal gender roles, and because the *Glasgow Herald* did not report more than the brief details of the case due to space, there were no reports of the behaviour in the CCDB. Separation cases containing reports of this behaviour span the period under investigation, whereas divorce cases cluster around the 1870s to 1890s (Figure 4.8).

Accusations relating to the neglect of a wife’s household duties were often related to meals. For example, during his testimony, David MacDonald told of an occasion when his wife Mary Hume failed to have his dinner ready on time and then refused to make it for him.²⁹ The accusations could also be made if a husband felt his wife had not ensured the family were presentable. Peter Williams felt that his wife Margaret Downie got out of bed too late in the mornings, and that she failed to keep herself and their children clean and tidy.³⁰ For John

²⁸ NRS, CS46/1896/8/10, Proofs.

²⁹ NRS, CS246/1506, Proofs

³⁰ NRS, CS46/1881/3/14, Proofs

McCaffrey, his wife Sarah Lynagh took too long to return to her housework and to attending to him after giving birth to their second son in November 1899.³¹ John also found fault with his wife when she refused to help him with his business. John expected Sarah to watch his butcher shop to allow him to go to market, but she refused.³² The nature of a husband's complaint could vary, but there were certain domestic duties that husbands expected their wives to maintain. A wife's refusal or inability to undertake these duties was unreasonable.

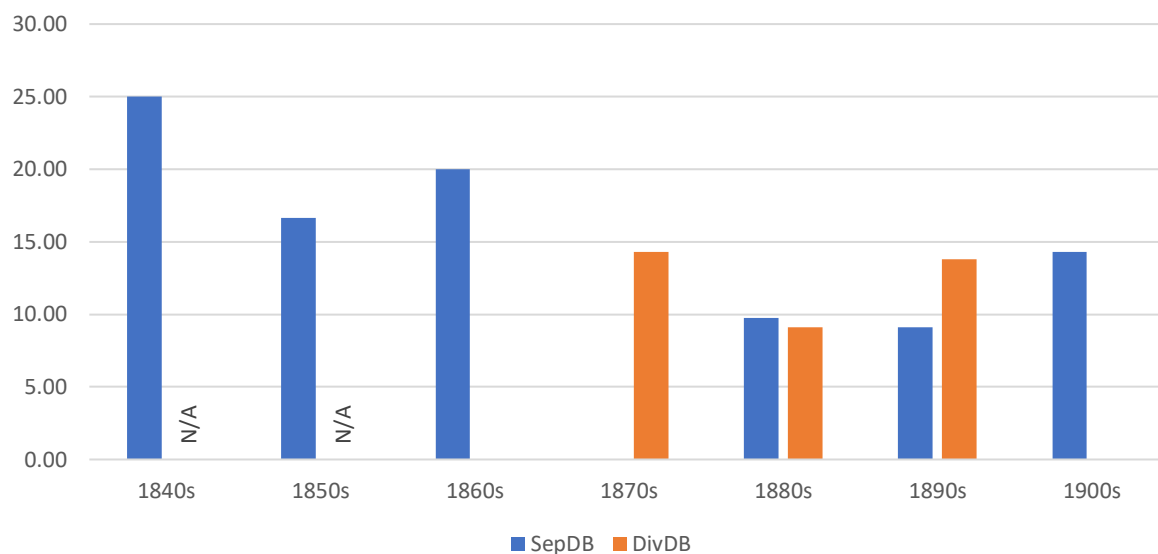


Figure 4.8 Percentage of cases that reported behaviour type ‘unfit wife’, by decade

(NB: there were no CCDB cases that reported this behaviour type)

4.3 Children

The work of Elizabeth Foyster has made it abundantly clear that children must be considered in histories of marital cruelty.³³ As victims, pawns, and perpetrators children played a role – willingly or otherwise – in the functioning of a cruel marriage. In the SepDB, 91 couples (74.59 per cent) had children, and in the DivDB the rate was slightly lower at 66 per cent (33

³¹ NRS, CS243/5192, Defences. (John attacked Sarah for still being in bed four days after giving birth).

³² NRS, CS243/5192, Defences.

³³ Foyster, *Marital Violence*, 2005, 129–67.

couples).³⁴ The children of couples in the CCDB were usually only mentioned when they too were victims, so an accurate number could not be calculated. Four forms of unreasonable behaviour that involved children emerged in this research: damaging your child(ren)’s health to cause pain to your spouse; using or having the children abuse their parent/step-parent on your behalf; denying your spouse access to the children; and unreasonable parenting.

Collectively, these unreasonable behaviours involving children were present in each of the three databases. However, as Figure 4.9 shows, they were reported much more by couples who sought a separation. Around one in five separation cases (26 couples) involved accusations of unreasonable behaviour where children featured. In the DivDB and CCDB just 6 per cent (three couples) and 3.7 per cent (18 couples) of cases respectively included such accusations. Across the century the level of reporting in the SepDB consistently hovered between 14 to 25 per cent, except in the 1860s and 1870s where it was slightly higher (Figure 4.10). In the CCDB reports of unreasonable behaviour associated with children began to appear in the 1860s and were then present for the remainder of the Victorian period at a consistently low rate. Reports in the DivDB, were only found in the two decades – the 1880s and 1890s – and in small numbers.

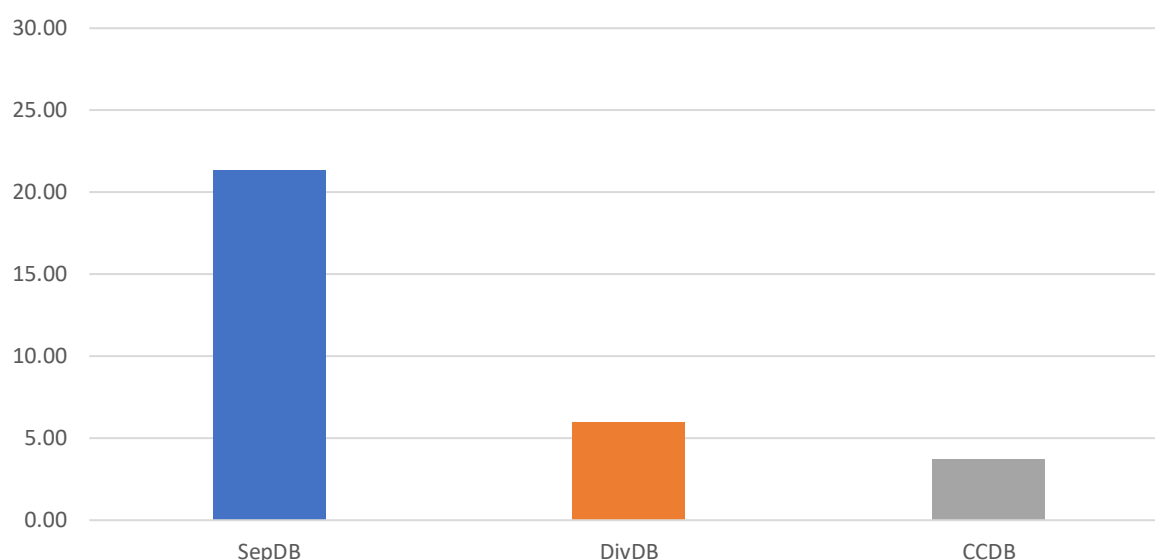


Figure 4.9 Percentage of cases that reported behaviour type ‘children’

³⁴ In an additional SepDB case the pursuer was pregnant with the first child of the marriage at the time the case was raised.

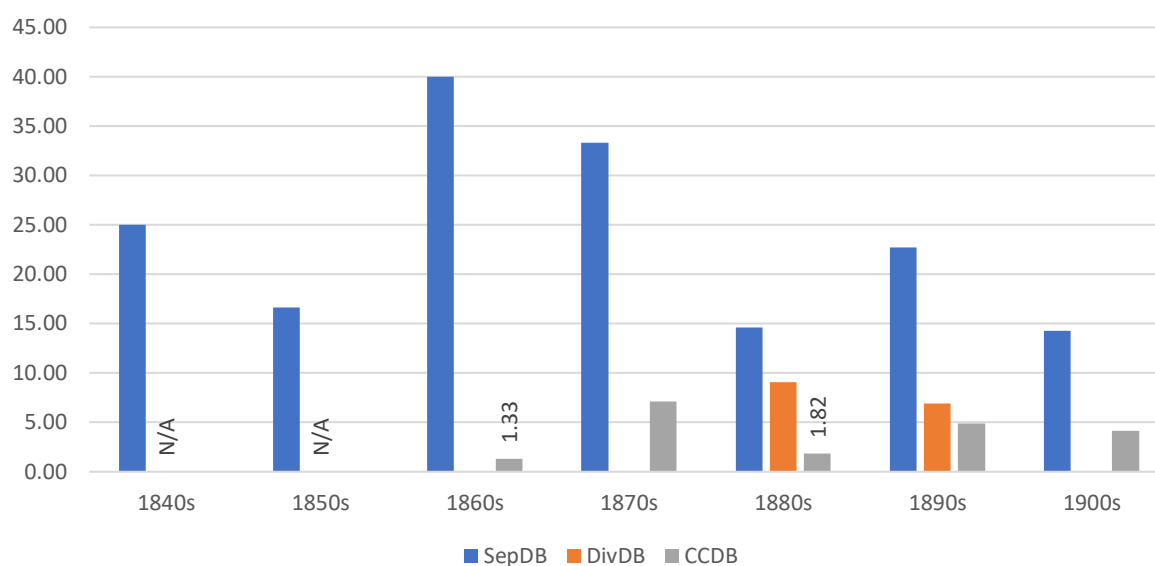


Figure 4.10 Percentage of cases that reported behaviour type ‘children’, by decade

Reports of unreasonable behaviours that involved children were made in most of the occupation categories (Figure 4.11). While the skilled labour categories were most likely to report these behaviours in both the SepDB and CCDB, in the DivDB it was those in the skilled occupation categories that were most likely to report unreasonable behaviours connected to children. Significantly, Figure 4.11 also shows that in each of the databases, there were no reports of cruelty associated with children from the most elite occupation categories.³⁵

As Table 4.3 shows, behaviours that damaged a child’s health were the most commonly reported form of unreasonable behaviour involving children in all three databases.³⁶ During his 1881 separation case James Buchanan told of how his wife Marion McKellar would strike and abuse their teenage daughters, as well as their maid. Marion’s violence was so frequent that James was afraid to leave the home if it meant the children would be alone with their mother.³⁷ Similarly, John McCaffrey threatened violence towards his sons, Patrick and John. On many occasions, he referred to the boys as “bastards” and wished for their deaths. When his wife Sarah Lynagh went out, John taunted her that she would find their children dead upon her return.³⁸ John’s behaviour gave Sarah serious cause for concern, and during the proofs of her

³⁵ NB: The most elite occupation category carried according to the database.

³⁶ See Appendix E for a detailed list of the behaviours included in each format.

³⁷ NRS, CS46/1881/6/161, Summons.

³⁸ NRS, CS243/5192, Summons; NRS, CS243/5192, Proofs.

separation case, she testified: “I was in constant terror of cruelty to my children”.³⁹ Although explicitly the targets of these behaviours were the children of the marriage, this was a “tool of cruelty that husbands used against their wives”.⁴⁰

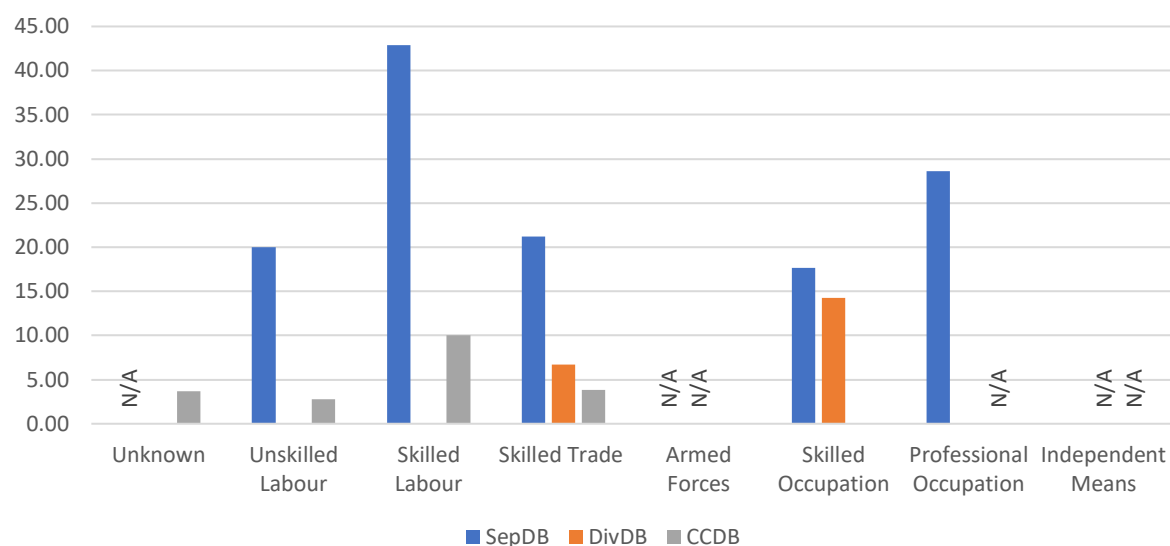


Figure 4.11 *Percentage of cases that reported behaviour type ‘children’, by husband’s occupation category*

Table 4.3 *Description of behaviours included in behaviour type ‘children’*

Description	SepDB	DivDB	CCDB
Preventing Contact with Child(ren)	6	0	0
Damaging to Health of Child(ren)	14	3	18
Unfit Parenting	8	1	0
Using/Having Child(ren) Abuse their Parent	7	0	0
Total No. of Cases that Reported Behaviour Type ‘Children’	26	3	18

³⁹ NRS, CS243/5192, Proofs.

⁴⁰ Foyster, *Marital Violence*, 2005, 137.

Both the SepDB and, to a lesser extent, the DivDB included examples of unreasonable parenting. One form that unfit parenting could take was to be overbearing. During the 1895 separation of Jeannie Miller against Bank of Scotland agent John Clark, Jeannie accused John of acting in a “cruel, overbearing and unfatherly way towards members of his family”.⁴¹ A spouse might also be accused of unfit parenting if they failed to attend to the children properly or did not provide for them.

There were a further two categories of unreasonable behaviours that involved children that were only reported in the SepDB: using, or having, a child abuse the spouse; and preventing contact between a parent and their child. In situations where children abused their parent, their agency was usually non-existent. During her 1846 separation case Agnes Crawford complained of the influence her husband’s behaviour had on their ten children. Her husband William Russell used insulting epithets in the presence of the children, and he encouraged them to do the same. According to Agnes, their ten children followed their father’s example and disrespected her too.⁴² Helen Fleming left her husband John Fleming on 14 April 1879, on account of his cruel behaviour. By the time she brought her separation case later that year, she had received rude letters from their 13-year-old son Andrew, as had other members of her family. Her legal team explained in the Summons that John had exerted his control over his family and “caused his son Andrew to write most abusive letters to the pursuer”.⁴³

An abuser might also use their children to harm their spouse by controlling their interaction with their other parent. Florence Gibbs reported that her husband James Stevenson had more than once threatened to take away her son Samuel when he had been a baby. When their children were older and the couple were living separately, James threatened to send the children to boarding school as a punishment if Florence could not keep her home with the allowance he gave her.⁴⁴ When Jane Kean brought a separation case in 1879 she explained that she had resolved to leave her husband Thomas Naismith many times before that date. Thomas’ threat that he would keep their son if she left him had compelled her to stay.⁴⁵ An example from the separation of Anna Heyliger against Dr Thomas Richmond is unique, and particularly cruel. Rather than preventing his wife from seeing their two children directly, Thomas threatened his children. He banned his sons Thomas and Arthur – who were twelve and ten by the time of the separation case in 1890 – from speaking to their mother and told them that he would punish

⁴¹ NRS, CS243/1452, Summons.

⁴² NRS, CS239/R/39/3, Summons.

⁴³ NRS, CS46/1879/11/12, Summons.

⁴⁴ NRS, CS243/6810, Summons.

⁴⁵ NRS, CS46/1879/5/48, Summons.

them if they went into her room. Anna was not only prevented from communicating with her sons, but if she had communicated with them then they would be punished for her actions.⁴⁶

4.4 Alcohol

In both the DivDB and SepDB, accusations of unreasonable behaviour associated with alcohol were reported frequently: 64.75 per cent of separations (79 cases), and 60 per cent of divorces (30 cases). Such accusations were not so regularly included in the newspaper reports of criminal court cases where just 3 of the 486 reported incidents included them (0.62 per cent). Figure 4.12 shows that over the entirety of the Victorian period the rate of reporting grew among separation cases, though there was some fluctuation from decade to decade. In the DivDB the rate was the same at the end of the period as it had been at the start, though there was significant variation between those dates that was likely caused by the varying number of sampled cases per decade. In terms of class, both the SepDB and DivDB included accusations of this behaviour in all occupation categories (Figure 4.13). The numbers in the CCDB are too low to be statistically significant.

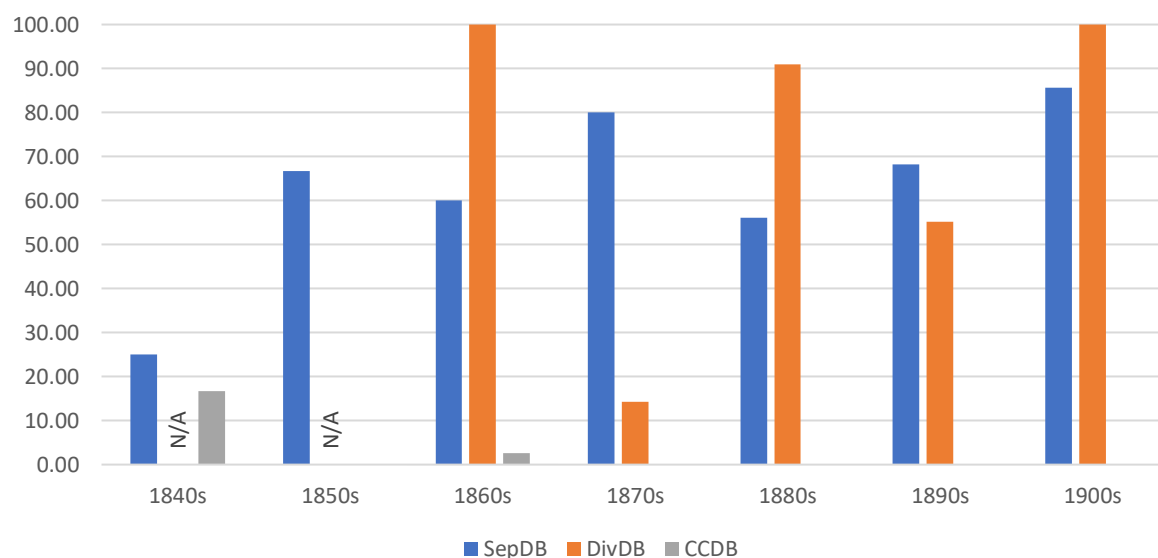


Figure 4.12 Percentage of cases that reported behaviour type ‘alcohol’, by decade

⁴⁶ NRS, CS243/6195, Summons.

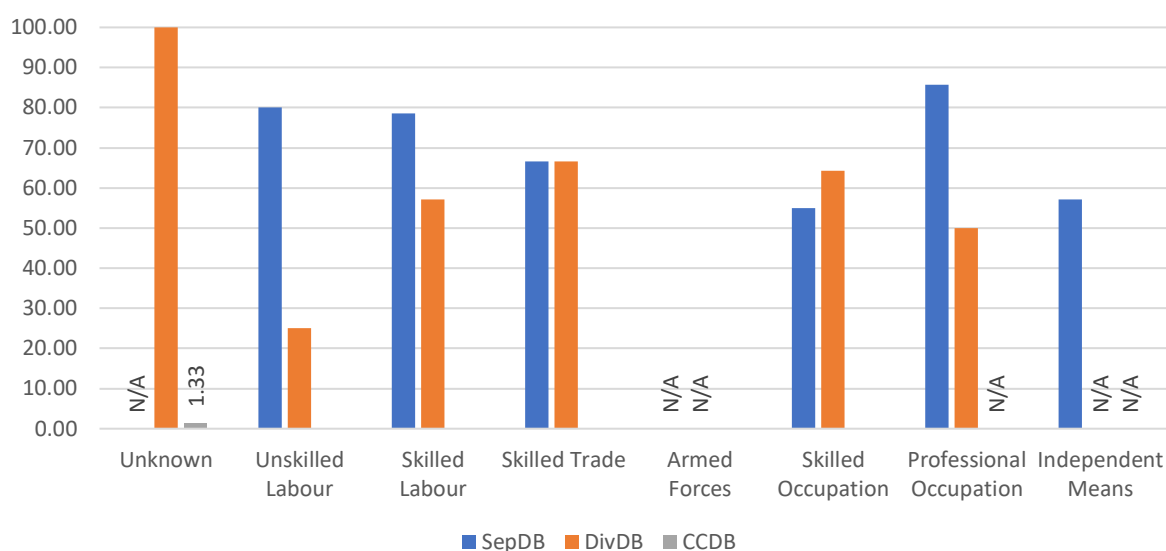


Figure 4.13 Percentage of cases that reported behaviour type ‘alcohol’, by husband’s occupation category

Reports of unreasonable behaviours related to alcohol took two forms: addiction to alcohol (i.e. alcoholism); and the commission of other unreasonable acts while under the influence of alcohol. The second was rarely complained of in the absence of the first. Table 4.4 shows that in the SepDB, a complaint was made about alcoholism in all but one of the cases that reported unreasonable behaviour associated with alcohol. Likewise, 29 of the 30 divorce cases that reported alcohol-related unreasonable behaviours also reported alcoholism. If a spouse was an alcoholic, they were usually accused of being constantly inebriated. Wine and spirit merchant Hugh Swan was accused of drinking heavily during the entirety of the summer of 1894 by his wife Annie Corrigan.⁴⁷ Jane Skelton claimed that her husband, wine and spirit merchant James Pollock, had seldom been sober in the five years prior to their 1881 separation case.⁴⁸ Such a long-term addiction to alcohol could be seriously debilitating to a sufferer’s physical health. In the summer of 1881, James Pollock had to be removed to a Glasgow asylum after a particularly bad period of drinking. A small number of cases in the SepDB and DivDB noted that the alcoholic in the marriage suffered from delirium tremens.⁴⁹ This severe form of

⁴⁷ NRS, CS46/1895/9/29, Summons.

⁴⁸ NRS, CS46/1881/12/48, Summons.

⁴⁹ NRS, CS243/2750, Summons; NRS, CS46/1881/12/48, Summons; NRS, CS243/1763, Summons.

alcohol withdrawal occurred when an alcoholic drastically reduced their alcohol consumption too quickly and could be fatal without medical attention.

Table 4.4 Format of behaviour type ‘alcohol’

Description	SepDB		DivDB		CCDB	
	No. of Cases	<i>Percentage</i>	No. of Cases	<i>Percentage</i>	No. of Cases	<i>Percentage</i>
Perpetrator was drunk	80	<i>65.57</i>	33	<i>66</i>	69	<i>14.2</i>
Victim was drunk	13	<i>10.66</i>	0	<i>0</i>	13	<i>2.67</i>
Perpetrator and victim were drunk	0	<i>0</i>	0	<i>0</i>	9	<i>1.85</i>
Cases that included the behaviour type ‘alcohol’	79	<i>64.75</i>	30	<i>60</i>	3	<i>0.62</i>
Cases that described the defender/accused as addicted to alcohol	78	<i>63.93</i>	29	<i>58</i>	0	<i>0</i>
Cases that explicitly linked the perpetrator’s drinking to other forms of unreasonable behaviour	27	<i>22.13</i>	7	<i>14</i>	0	<i>0</i>
Cases that implied the perpetrator’s drinking was linked to other forms of unreasonable behaviour	16	<i>13.11</i>	3	<i>6</i>	3	<i>0.62</i>
Delirium Tremens	4	<i>3.28</i>	1	<i>2</i>	0	<i>0</i>

As well as having health implications for the sufferer, alcoholism could have a detrimental impact on their spouse too. Jeannie Black explained during her 1897 divorce case that her own health had deteriorated because of the strain she was put under by her husband's alcoholism. Jeannie's husband, joiner James Jeffrey, had become an alcoholic after they had emigrated to New York in the summer of 1890. Jeannie was James' primary carer and her stress quickly increased when the couple began to struggle economically. Because of James' drinking, they were unable to pay for board and lodgings. Just a few weeks into their life in New York, James deserted Jeannie and returned to Glasgow. In her testimony Jeannie recalled that after the desertion she was sent to an infirmary because "[James'] habits had had such an effect on my health". The testimony of their Brooklyn landlady, a Mrs Wishart, included more details. According to Mrs Wishart, Jeannie "went insane & had to be sent to the asylum" after James' desertion.⁵⁰ The connections between alcoholism and economic abuse were multiple. Alcohol addiction itself was a drain on money, but it could also cause a sufferer to be economically inactive and these themes will be discussed further in Chapter Five.

As Table 4.4 shows, alcoholism was also cited as a facilitator of physical violence in a third of separation cases and a fifth of divorces. In 22.13 per cent of separation cases and 14 per cent of the sampled divorce cases the link between an abuser's alcoholism and other unreasonable behaviours was explicitly stated. Just a month after Eliza Clarkson and Robert Ritchie were married in 1887, Robert started to come home drunk almost every night. In her Summons, Eliza explained that on these occasions when he returned home drunk, he was also violent and unreasonable: he broke furniture, threatened her life, threatened her with knives, brought people of "low company" to the home, and forced her to get up in the middle of the night to minister to the needs to of his guests.⁵¹ As Joanne Begiato's work on manliness has shown, this would have been a powerful allegation. First, Robert's lack of self-control, embodied in his intemperance, marked him as unmanly. Second, by bringing his intemperance and the associated unreasonable behaviours into the home, Robert created the antithesis of the Victorian ideal: an 'unhappy' home.⁵² Victims, witnesses, and judges alike recognised that the influence of alcohol could make a person more likely to act in an unreasonable manner. Thus, at the heart of this complaint was that spouses were drunk and this contributed to additional suffering.

⁵⁰ NRS, CS46/1897/10/54, Summons; NRS, CS46/1897/10/54, Proofs.

⁵¹ NRS, CS46/1896/3/57, Summons.

⁵² Joanne Begiato, *Manliness in Britain, 1760-1900* (Manchester, 2020), 68–94, 136–161.

In a further 13.11 per cent of separations, 6 per cent of divorces, and 0.32 per cent of criminal court cases the association between alcohol and other unreasonable behaviours was implied. Descriptions of incidents would include a range of unreasonable behaviours where the abuser being drunk being one of them. For example, in Janet Cochrane's 1854 separation case against Hugh Ferrier, one condescendence reported, "the defender in his own house, in a fit of drunkenness struck the pursuer and blackened her eye".⁵³ The negative connotations of the phrase "fit of drunkenness" imply the Janet considered Hugh's alcohol consumption to have been unreasonable.

Given the damaging effects of alcoholism – physically, mentally, and economically – it is not surprising that a number of victims told of the efforts they had made to try to break their spouse's addiction. A keeper was brought in to watch James Pollock, who was reported to have been institutionalised above, to provide him with round the clock support.⁵⁴ James Littlejohn moved his family to Irvine in an attempt to remove his wife Agnes Brown from her circle of drinking friends.⁵⁵ Anne Collins convinced her husband Charles McElhaw to check himself into the St Elizabeth's Home for private nursing in Glasgow to treat his alcoholism.⁵⁶ Donald Fraser engaged the help of his father-in-law to try and shake his wife's addiction. Donald sent Catherine McMillan to live with her father on South Uist for six months.⁵⁷ Although not great in number, these examples of victims who tried to break their spouse's addiction speak to the pain and suffering that such behaviour cost them. In 1903 habitual drunkenness was made grounds for a judicial separation in Scotland.⁵⁸

4.5 Controlling Behaviours

A number of psychological cruelties could be categorised as further controlling behaviours. Within this grouping, there were three subdivisions. First, a perpetrator might control the victim's access to certain spaces. Second, a perpetrator's temperament could implicitly control the victim because of the fear it instilled. Third, a perpetrator might gain control by degrading their victim, which subliminally made them more malleable and susceptible to cruelty.

⁵³ NRS, CS46/1898/1/48, Summons.

⁵⁴ NRS, CS46/1881/12/48, Summons.

⁵⁵ NRS, CS46/1880/12/61, Summons.

⁵⁶ NRS, CS46/1896/12/54, Summons.

⁵⁷ NRS, CS46/1900/12/69, Summons.

⁵⁸ Roderick Phillips, *Putting Asunder: A History of Divorce in Western Society* (Cambridge [England] ; New York, 1988), 195.

4.5.1 Spatial Control

The spatially controlling behaviours related to the act of putting a victim out of, or banning them from, their homes, or spaces in their homes. This behaviour was most reported in the SepDB, where almost two in every five cases included such an allegation (Figure 4.14). Reports were less common in divorce cases, at 10 per cent (5 cases), and in criminal court cases the rate was just 2.6 per cent (11 cases). In terms of change over time, Figure 4.15 shows that in reports in separation cases increased in the first three decades of the Victorian period before levelling out at between 30 and 40 per cent of cases per decade from the 1870s onwards. In the DivDB and CCDB the behaviour was reported with much less consistency over the period. Figure 4.16 shows that reports according to occupation category followed different patterns in the different databases. In the SepDB the independent means category reported slightly more than the other social groups, and the unskilled labour category reported this behaviour the least. The remaining occupation categories in between each included reports of the victim having been ‘put out’ fairly equally. The pattern differs in the DivDB and CCDB. In the former the rate of reporting decreases as class increases, while in the latter this behaviour is primarily reported in the unskilled labour category, with just two cases also being reported in the unknown occupation category. Behaviours related to spatial control were also gendered in nature. As Table 4.5 shows, the majority of those who reported being put out of their home or a room were female.

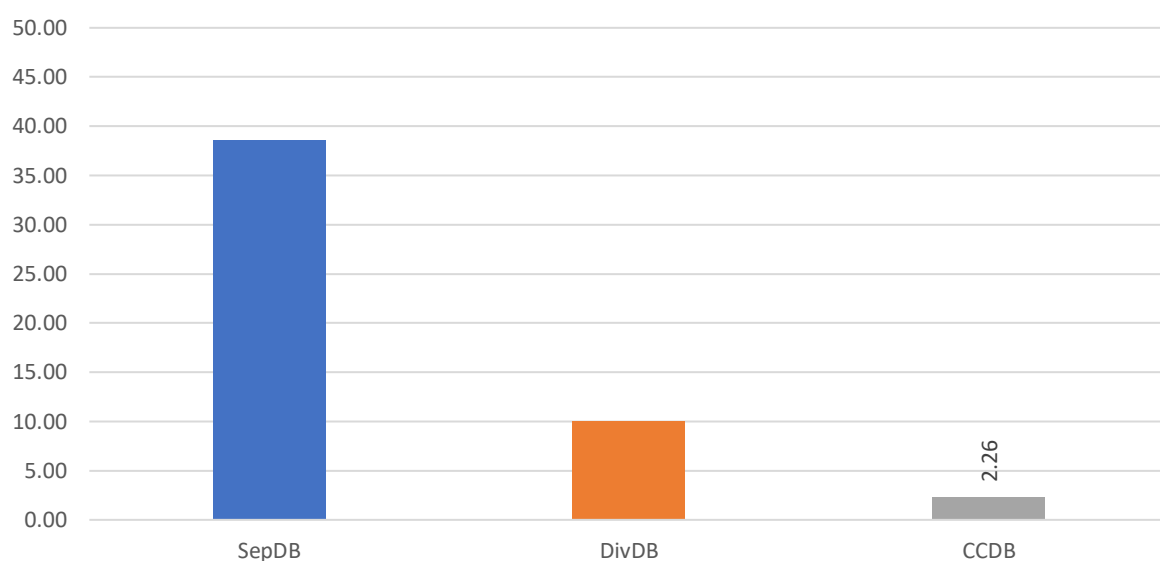


Figure 4.14 Percentage of cases that reported behaviour type ‘put out’

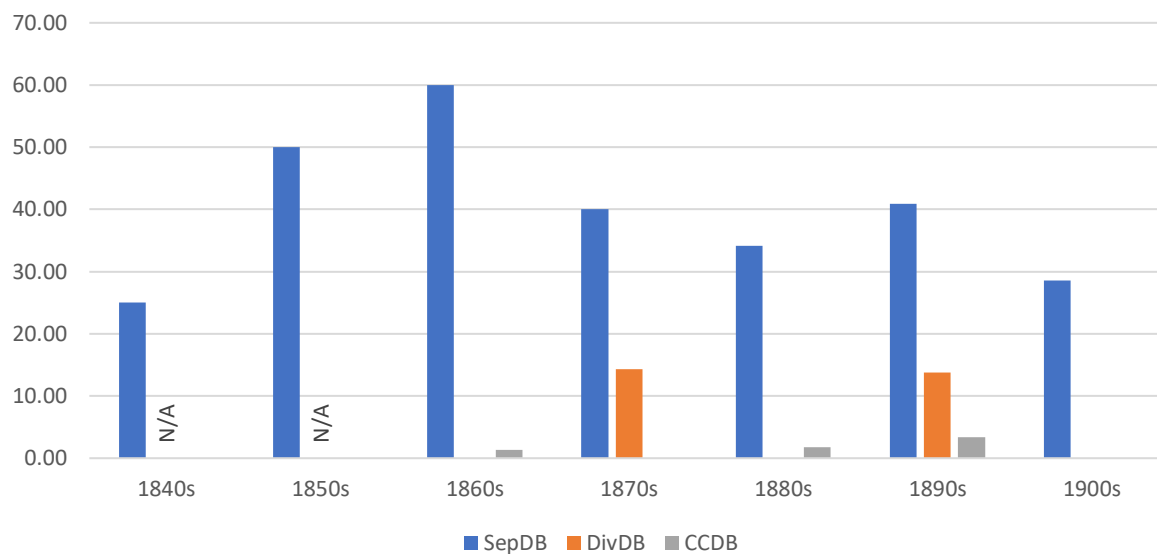


Figure 4.15 Percentage of cases that reported behaviour type 'put out', by decade

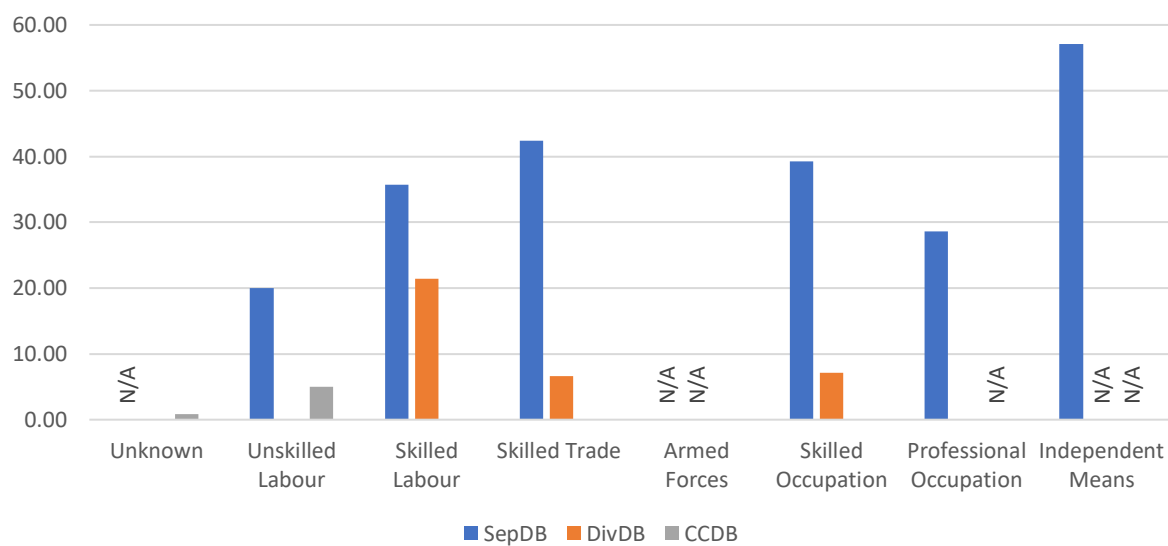


Figure 4.16 Percentage of cases that reported behaviour type 'put out', by husband's occupation category

Table 4.5 Sex breakdown of victims of behaviour type ‘put out home’ and ‘put out room’

Description	SepDB	DivDB	CCDB
Male Victim	3	1	0
<i>Pursuer/Victim</i>	1	0	0
<i>Defender/Accused</i>	2	1	0
Female Victim	34	4	11
<i>Pursuer/Victim</i>	34	3	11
<i>Defender/Accused</i>	0	1	0
Total number of Cases with behaviour type ‘put out home’ and ‘put out room’	36	5	11
<i>Cases Involving both parties accusing each other of behaviour types ‘put out home’ or ‘put out room’</i>	<i>1</i>	<i>0</i>	<i>0</i>

A victim could be ordered out of the house as Janet Cochrane was, routinely in the two years preceding her 1854 separation case.⁵⁹ Alternatively, they might return home to find access to the home denied.⁶⁰ Typically the order to leave was accompanied with physical violence. In the middle of the night on 11 December 1861, Mary Donald’s husband James Strang had physically assaulted her with a chair before he took her by the throat and pushed her out of their home.⁶¹ Both formats were displays of control by the abuser. The perpetrator could, through deeds or words, control the victim’s movements.

There was only one case where the victim specified that they were banned from a certain room rather than the house as a whole. This case, Robina Currie against William Cunningham, heard in 1841, was from the independent means category. Robina and Williams lived in Craigends (Figure 4.17), a home with a great number of rooms. The vast majority of couples who sought legal intervention through separations, divorces, or criminal proceedings would not

⁵⁹ NRS, CS239/F/28/14, Summons.

⁶⁰ NRS, CS46/1865/7/147, Summons.

⁶¹ NRS, CS243/1763, Summons.

have lived in such grand homes. As such, it was more practical for abusers to remove their spouse entirely from the home in most cases of spatial control.



Figure 4.17 Watercolour perspective of main elevation of Craigends House by David Bryce, 1857 (Canmore Collection 1146465)

4.5.2 Temper & Quarrelsomeness

A spouse could be accused of having a temper or being quarrelsome. A temper or quarrelsomeness made the perpetrator threatening to the victim without them actually threatening violence. This behaviour was not reported at all in the CCDB, but it did feature in both separation and divorce cases. Victims reported quarrelsomeness and temper in 21.31 per cent of separations (26 cases), and 12 per cent of divorces (6 cases). Reports from the SepDB were present across most of the period, but in divorce cases reports were only mentioned between the 1870s and 1890s (Figure 4.18). In terms of class again the reports in the SepDB were drawn from all the occupation categories present, whereas only two occupation categories

reported temper and quarrelsomeness in the divorces. However, as Figure 4.19 shows, those occupation categories did straddle the class spectrum.

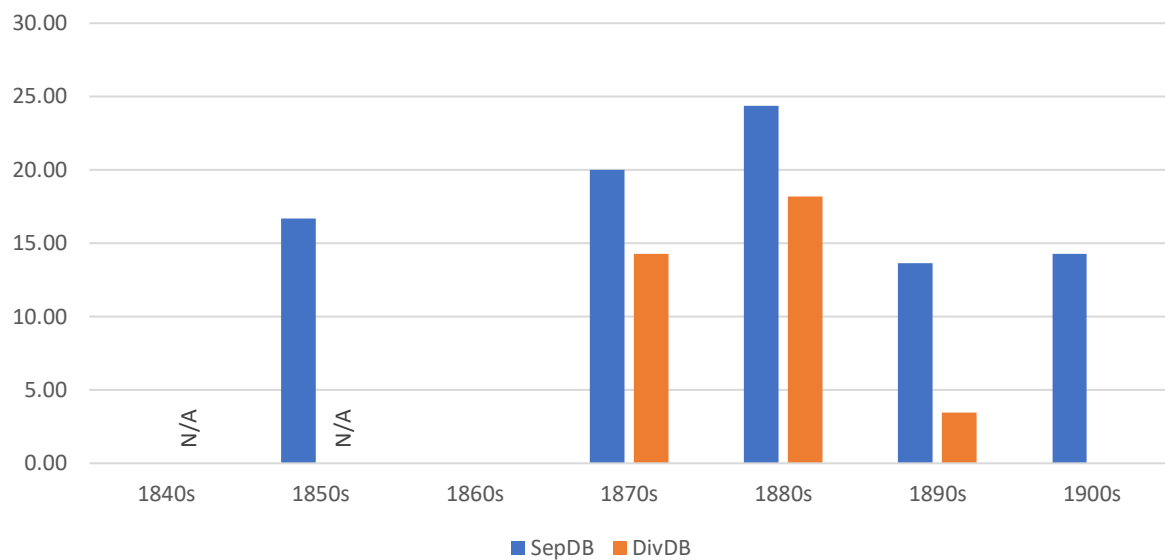


Figure 4.18 Percentage of cases that reported behaviour type 'temper', by decade

(NB: there were no CCDB cases that reported this behaviour type)

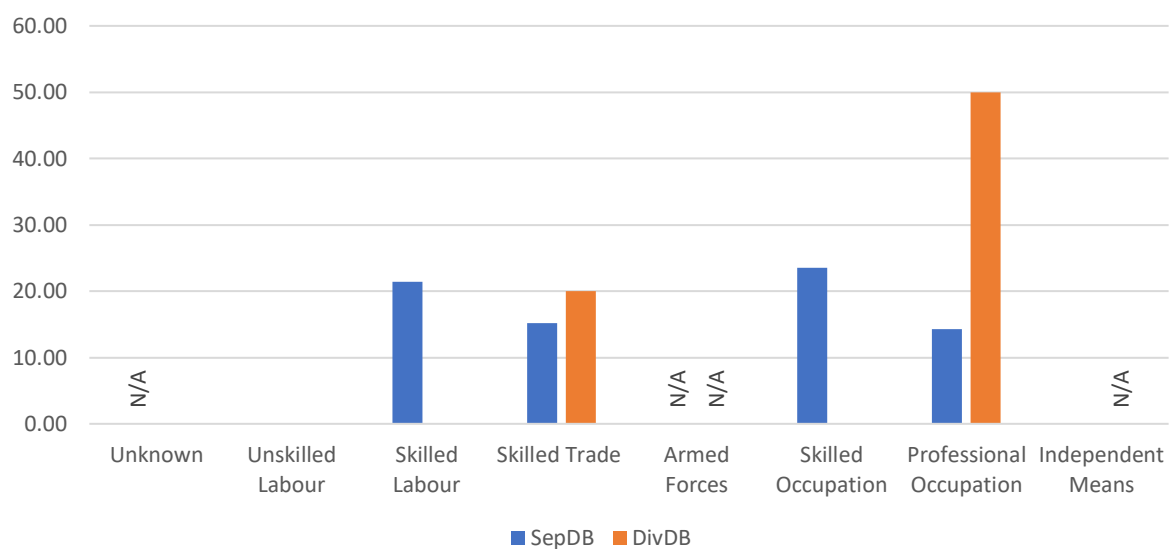


Figure 4.19 Percentage of cases that reported behaviour type 'temper', by husband's occupation category

(NB: there were no CCDB cases that reported this behaviour type)

In terms of sex and roles in a case, Table 4.6 shows that female pursuers and male defenders were both the alleged victims of temper in separation cases. Comparatively, in the DivDB, only pursuers (both male and female) alleged that they were the victims of temper. When rallied against husbands and wives, the unreasonable aspect was a lack of self-control. When alleged against men, the problem lay in the fact that the husband could not control his own emotions and was too quick to fly off the handle. Thomas Naismith, a butcher with three shops, was described by his wife Jane Kean as having “a violent temper”.⁶² Similarly, in 1895 Helen Bryson’s Summons described her husband Robert Don as “a man of most unstable and violent temper”.⁶³ When a wife’s temper or quarrelsome nature was complained of, the problem was not her lack of self-control but that she could not be controlled by her husband. John Currie, who worked in a pub, described his wife Margaret Cowan as “a woman of ungovernable temper” during their 1868 separation trial.⁶⁴ Similarly, public speaker Thomas Mitchell said his wife’s temper was “unbearable”.⁶⁵ In all these cases the unreasonableness lay with the fact that allegedly, these wives were not quiet and obedient as their husbands expected them to be.

Table 4.6 Sex and role breakdown of victims of behaviour type ‘temper’

Description	SepDB	DivDB
Male Victim	9	3
<i>Pursuer</i>	0	3
<i>Defender</i>	9	0
Female Victim	15	1
<i>Pursuer</i>	15	1
<i>Defender</i>	0	0
Total number of Cases with behaviour type ‘temper’	21	4
<i>Cases Involving both parties accusing each other of behaviour type ‘temper’</i>	3	0

(NB: there were no CCDB cases that reported this behaviour type)

⁶² NRS, CS46/1879/5/48, Summons.

⁶³ NRS, CS46/1895/12/7, Summons.

⁶⁴ NRS, CS243/1144, Defences.

⁶⁵ NRS, CS46/1888/6/117, Defences

4.5.3 Degrading Behaviour

One form of unreasonable behaviour that was uniquely reported during separation cases was degrading behaviour. Distinct from degrading language, which will be discussed alongside other methods of verbal abuse in Chapter 5, degrading behaviour related to instances where husbands treated their wives disrespectfully. Although not reported at all in the divorce or criminal court cases that were sampled, this behaviour was reported in 14.75 per cent of separations (18 cases). The rate of reporting was not consistent across the period. After first being reported in 75 per cent of separations in the 1840s (three cases), the behaviour was not reported again until the 1870s (Figure 4.20). A pattern was slightly more recognisable in terms of class. As Figure 4.21 shows, degrading behaviour was reported most by those in the top two occupation categories: professional occupation and independent means. As the nature of degrading behaviour usually required the abuser to have access to disposable income or the victim to think highly of themselves in terms of social class, this pattern is to be expected.

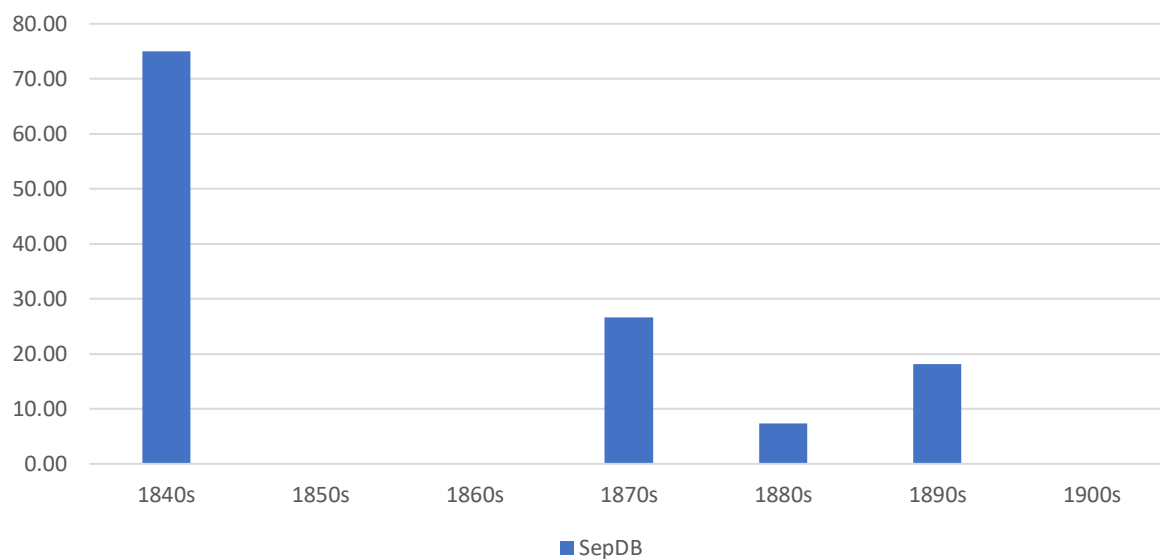


Figure 4.20 *Percentage of cases that reported behaviour type ‘degrading behaviour’, by decade*

(NB: there were no DivDB or CCDB cases that reported this behaviour type)



Figure 4.21 Percentage of cases that reported behaviour type ‘degrading behaviour’, by husband’s occupation category

(NB: there were no DivDB or CCDB cases that reported this behaviour type)

Degrading forms of behaviour were primarily reported by women, but there were two separations where husbands also included allegations of degrading behaviour in their case (Table 4.7). As Table 4.8 shows, the format that degrading behaviour could take was varied. Jane Skelton said that her husband James Pollock spoke badly of her to her relatives and treated her “as if [she] were a bad woman”.⁶⁶ Rather than being treated with respect or attention, “to which she was entitled as his wife”, Janet McFarlane considered that she endured from her husband, steamship owner and wine and spirit merchant Duncan Dewar, to be “more the treatment of a menial”.⁶⁷ Annie Green reported that her husband passed her off as a sex-worker to a group of artillery volunteers in the summer of 1871, just weeks after their marriage. After they had come across the group, Baronet Hew Crawford Pollok pushed his wife Annie in among the soldiers and asked “if they wanted a ‘Judy’ for the night”.⁶⁸

⁶⁶ NRS, CS46/1881/12/48, Proofs.

⁶⁷ NRS, CS243/1797, Summons.

⁶⁸ NRS, CS46/1874/73, Summons; Rosalind Crone, ‘Mr And Mrs Punch In Nineteenth-Century England’, *The Historical Journal* 49, no. 04 (December 2006): 1081.

Table 4.7 Sex breakdown of behaviour type ‘degrading behaviour’

Description	SepDB
Male Victim	1
<i>Pursuer/Victim</i>	0
<i>Defender/Accused</i>	1
Female Victim	17
<i>Pursuer/Victim</i>	17
<i>Defender/Accused</i>	0
Total number of Cases with behaviour type ‘degrading behaviour’	18
<i>Cases Involving both parties accusing each other of behaviour type ‘degrading behaviour’</i>	0

(NB: there were no DivDB or CCDB cases that reported this behaviour type)

Table 4.8 Format of behaviour type ‘degrading behaviour’

Description	SepDB	
	No. of Cases	Percentage
Mealtimes	4	3.28
Superseded wife as household manager	4	3.28
Withheld servant	3	2.46
Falsely accused of theft	2	1.64
Removed keys	2	1.64
Made to sleep on floor	1	0.82
Treated like a ‘menial’	1	0.82
Treated like a ‘bad woman’	1	0.82
Flaunted adultery	1	0.82

(NB: there were no DivDB or CCDB cases that reported this behaviour type)

A wife's position in the home during the Victorian period was as household manager. She was occupied with all the tasks involved in running a smooth household, whether that was managing servants or doing the work directly. She also had to manage the accounts to ensure that all the expenses were covered with whatever money she was given. One form of degrading behaviour that has been identified by other historians of marital cruelty, was the replacement of the wife as household manager. Hammerton described this behaviour as "[o]ne of the most eloquent statements husbands could make about their marital power".⁶⁹ William Cunningham replaced his wife, Robina Currie, as household manager of their home, Craigends, on multiple occasions. In August 1832 William seized the keys to the presses and drawers and took charge of the management of household matters. Next, he asked his paramour, Isabella McKinnon, to procure a female servant to take over the running of their home. Finally, in winter 1836, William transferred the management of the household to his bedfellow and ploughman, William Arthur.⁷⁰ Other examples of this behaviour gave less description of the methods, but each example made clear that to replace a wife as household manager in any way "deprived her of her proper place of authority" in the household.⁷¹

There were two lesser reported forms of degrading behaviour that were closely linked to depriving a wife of her position in the household: the removal of keys and the withholding of a servant's services. Though it could be, the removal of the keys to the house was not necessarily a form of spatial control (see above) because the perpetrator was not banning the victim from the home in the long-term. Instead, removal of the keys was about inconveniencing the wife, by forcing her to wait until her husband returned before she could continue to go about her day. By preventing a victim from making use of the services of the household servant, a spouse could similarly inconvenience their partner and degrade their position in the household. Typically, husbands withheld servants' services from wives, but there was one case that included a male victim. Mary Hume alleged that as well as denying her access to the servants, her husband David MacDonald went as far as to order her out of the room when he spoke to the servants, because he would not have her there.⁷² However, David countered this allegation with his own and claimed that it was Mary who ordered the servants to refuse his requests and not to make his meals.⁷³

⁶⁹ Hammerton, *Cruelty and Companionship*, 114.

⁷⁰ NRS, CS228/C/27/9, Summons.

⁷¹ NRS, CS243/6195, Summons; see also NRS, CS46/1895/9/29, Summons or NRS, CS243/1452, Summons.

⁷² NRS, CS246/1506, Summons.

⁷³ NRS, CS246/1506, Defences.

Another stand-out theme in reports of degrading behaviour involved mealtimes. Four wives reported that they were not allowed to sit at the table with their husbands, and sometimes their children, for their meals (this was 3.28 per cent of all separation cases, or 23.53 per cent of cases that included accusations of degrading behaviour).⁷⁴ As well as banning Robina Currie from sitting at the dinner table with him, William Cunningham also told the servants that “any kind of food was good enough for her”. In consequence, Robina only received food of “very inferior quality”. Not only was she accustomed to receiving better food as a middle-class woman, Robina stated that her rank, and that of her husband, entitled her to better food.⁷⁵

4.6 Conclusion

Non-physical cruelty came in a multitude of forms that each reveal different expectations of marriage in Victorian Glasgow. Overall, these behaviours were widespread in the civil cases; just one SepDB and one DivDB case did not include any incidents of emotional or psychological cruelty. The picture was very different in the CCDB though, where just a fifth of cases contained these allegations. This stark difference was created because non-physical cruelty was not criminal, and even where non-physical cruelty accompanied the behaviours that were tried in the criminal courts, the limited space in newspapers restricted reports of criminal court proceedings to the facts of the case. Technically though, these behaviours did not always meet the threshold of cruelty for a legal separation either. Despite their lack of standing in the civil courts, they were still complained of in almost every case. Although it was predominantly physical violence that justified a separation and desertion and adultery were the sole grounds for divorce during this period, non-physical cruelties gave weight to the idea that the marriage was irreparable and involved a ‘system of maltreatment’ that could not be forgiven. In turn, this made the marriage worthy of legal intervention.

Complaints regarding adultery and flirtation show that marriage was not just an economic union, but that people expected romantic exclusivity too. Similarly, accusations of flirtation, the keeping of late hours, and lack of affection, which could be brought independently of claims of infidelity, shows that wives and husbands expected marriages to be companionate. Satisfaction was not the only expectation though. Pursuers and defenders who reported that their spouse neglected their household duties show that they also had practical expectations of

⁷⁴ NRS, CS46/1881/3/14, Proofs; NRS, CS243/6195, Summons.

⁷⁵ NRS, CS228/C/27/9, Summons.

how their marriage would function. This is a theme that will be developed further in Chapter Five when the economic duties of husbands and wives will be considered.

This chapter has also helped to expose the roles played by children in cruel marriages. Children were the victims of their parent's cruelty too, whether they were physically or non-physically abused, deprived of access to one of their parents, or raised to abuse one of their parents. Another particularly prevalent non-physical behaviour type in civil cases was alcoholism. Alcoholism was more than just an economic issue (see Chapter Five). It was also recognised that being under the influence of alcohol was linked to other forms of cruelty. The connections between alcoholism and marital cruelty were recognised legally in 1903 when perpetual drunkenness became grounds for a legal separation in Scotland.

Finally, non-physical cruelties could be inflicted with the intention of controlling the victim. Although the complete image of control portrayed in Hammerton's summary of the Kelly marriage – which was the first time the English Divorce Court accepted non-violent abuse as cruelty in 1869-70 – was not observed so forcefully in a single case in these sources, a broad variety of controlling behaviours were observed across a number of cases from the early Victorian period onwards.⁷⁶ Spatial control was usually enacted by putting the victim out of the home. However, in cases involving elite couples the victim could be barred from certain rooms in the home rather than the whole house. Having a temper was another non-physical form of controlling behaviour because of the fear that it could instil in the victim. Although both husbands and wives were accused of having a temper, in both incidences it was the husband's lack of control that was the problem. Either he lacked control of his own emotions or of his wife's. The degrading behaviours reported to the CoS – another form of controlling behaviour – are particularly telling with regards to expectations of a wife's role in married life. Complaints that husbands deprived their wives of the position of household manager suggest that women expected to hold this position of power within the home.

Non-physical cruelty, in its many forms, clearly caused victims significant suffering without physically harming them. Despite the limited definitions of criminal and civil laws, Victorian Glaswegians recognised certain emotional and psychological behaviours as unreasonable in marriage.

⁷⁶ Hammerton, *Cruelty and Companionship*, 95–101.

Chapter 5 Economic Cruelty

Economic abuse encompasses forms of behaviour that had negative financial implications for the victim. In real terms this could be deprivation of money, but it might also be the failure to provide a service. Economic abuse could be coupled with psychological abuse, as in cases of property destruction, or with emotional abuse, as in cases of desertion. These cruel economic behaviours featured in 102 of the 122 separation cases (83.61 per cent) and 34 of the 50 divorce cases (68 per cent).¹ However, economic cruelty was not mentioned often in the criminal court database (hereafter, CCDB) – just 10 of the 486 cases (or 2.06 per cent) referenced economic abuse and economic-emotional abuse was not mentioned at all. In the separations database (hereafter, SepDB), economic abuses were present consistently across both the century and the class spectrum. This was also true to a lesser extent in the divorce database (hereafter, DivDB). Thus, depending on the medium, it was possible for victims to report the economic abuse they suffered in their marriage, even though the behaviour did not entail an imminent threat to life.

Complaints relating to unreasonable economic behaviours are some of the most *explicitly* gendered in this thesis. As such, after analysing the broader patterns in the reporting of economic abuse, this chapter will address the gendered ways in which husbands and wives complained that their spouse failed to perform their economic roles in marriage. These complaints align closely with the ideology, much debated by historians, of separate spheres.² As husbands, men were supposed to be the family breadwinner and earn a sufficient wage to maintain a comfortable lifestyle. Symbiotically, wives were supposed to manage the husband's income and conduct the unpaid labour that kept the home hospitable, whether by undertaking the work themselves or managing domestic servants. Thus, investigation of these complaints will provide innovative interpretations of the engagement with separate spheres ideology among Victorian Scots. There will then be a discussion of the behaviour type 'property destruction'. As well as being financially detrimental, property destruction was also controlling. While it did not cause physical injury, property destruction was threatening behaviour and served as a reminder of the abuser's power. Finally, this chapter will consider cruel behaviours that were distinctly economic in nature, but also emotional: desertions.

¹ NB: For the purposes of this chapter, references to economic abuse as a whole also include the behaviour categories economic-emotional and economic-psychological.

² For an introduction to separate spheres historiography see Vickery, "Golden Age to Separate Spheres?"

Alongside more ordinary, clear cut cases of desertion, the case of Elizabeth Russell against Duncan Campbell Paterson will be discussed. Carried out across six years in the 1840s, the case resulted in a novel interpretation of desertion that worked in favour of this particular wife but does not appear to have been applied in other cases.

5.1 Broad Reporting Patterns

As Figure 5.1 shows, the rate at which economic abuse was reported across the three databases is varied. The low level of reporting among criminal court cases is most easily explained by both the nature of the criminal court system and newspaper crime reporting. The fast-paced character of the courtroom and journalism meant that only the most significant facts of a case were reported. Ergo, those that did not directly contribute to a prosecution for assault were unlikely to feature, even if they were a significant part of the victim's day-to-day life. While economic and economic-emotional abuse did not typically cause a threat to life, the significant level of reporting suggests that the Lord Ordinaries of the Court of Session (hereafter, CoS) considered complaints of this nature valuable evidence of the irreparability of a marriage.

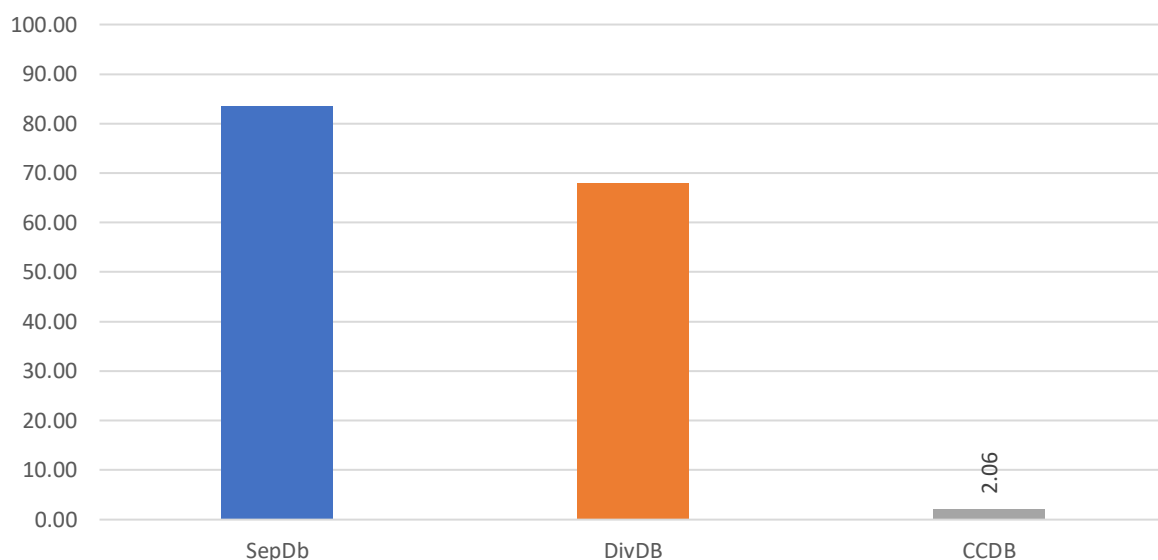


Figure 5.1 Percentage of cases that reported behaviours from the categories ‘economic’ or ‘economic emotional’

With regards to the level of reporting on economic and economic-emotional abuse across the Victorian era, the picture is quite different in each of the three databases. In the SepDB, economic or economic-emotional abuse featured in at least 75 per cent of the cases in every decade across the period.

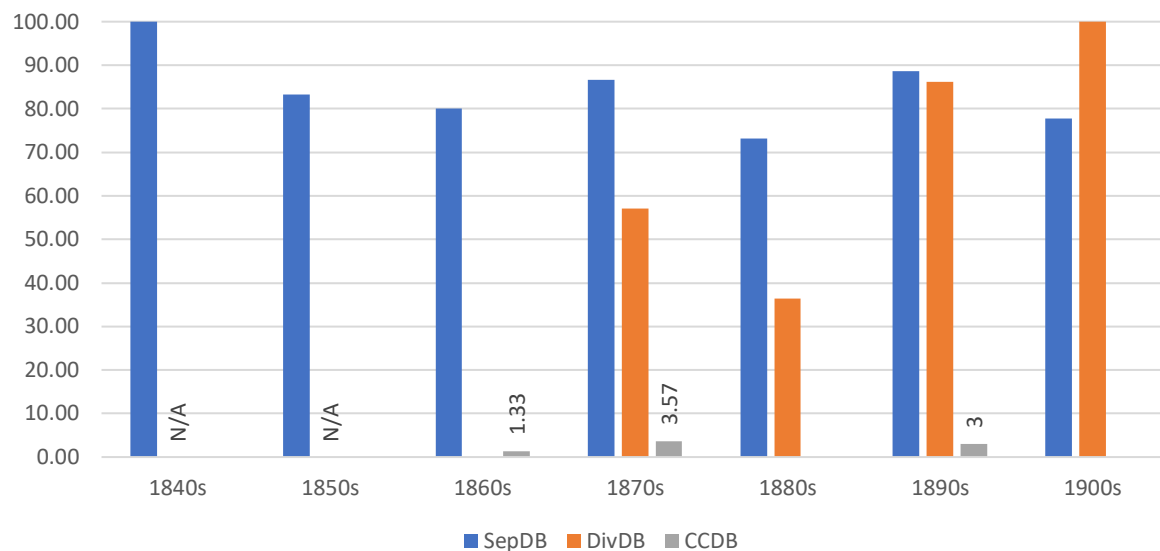


Figure 5.2 *Percentage of cases that reported behaviours from the categories ‘economic’ or ‘economic emotional’, by decade*

By comparison, the CCDB did not include reports of economic and economic-emotional abuse until the second half of the nineteenth century. The same was true of the DivDB, where cases only began to appear in the 1870s, though there were no sampled cases of divorce before the 1860s. Beyond a similar starting point, the patterns of reporting economic abuse in the CCDB and DivDB diverge. Reports in the criminal courts remain consistently very low, never even reaching 3 per cent of cases in any given decade. In the divorce cases the rate of reporting is 57.14 per cent (or four of seven cases) in the 1870s, and following the same pattern as the SepDB, this rate drops slightly in the 1880s before rising considerably again in the final two decades.

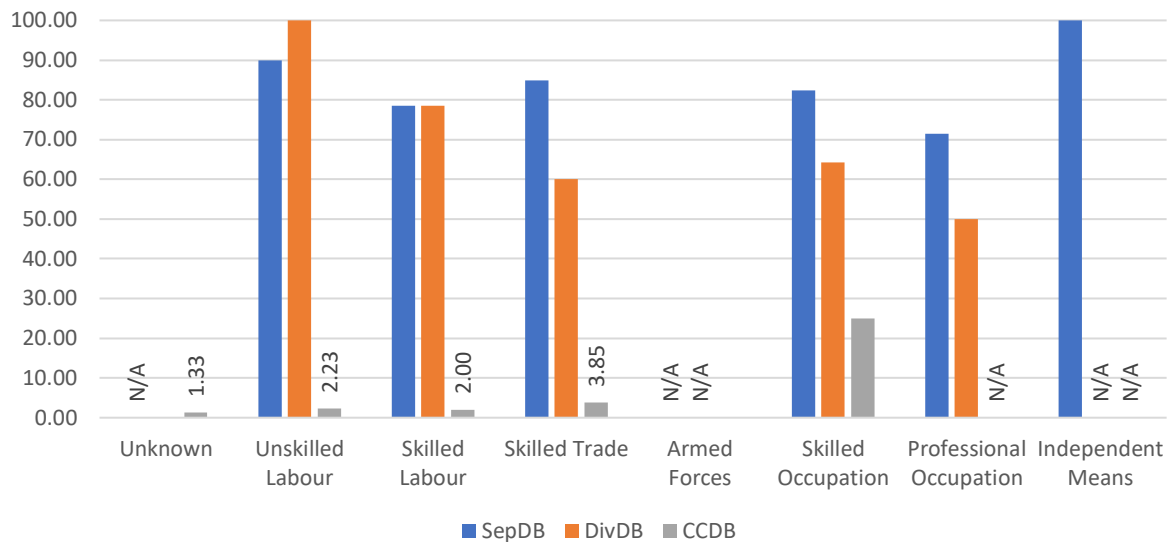


Figure 5.3 Percentage of cases that reported behaviours from the categories ‘economic’ or ‘economic emotional’, by husband’s occupation category

Comparisons between the databases in terms of reporting according to occupation category is slightly less varied. In the SepDB, economic abuse was reported by couples from all the occupation categories that featured in this database (N.B. there were no husbands whose occupation was unknown, or who were in the armed forces category). As with the distribution across time, the percentage of cases per occupation category that reported economic abuse was consistently significant across the class spectrum. As shown in Figure 5.3, the rate of reporting fluctuated between 71.4 per cent and 100 per cent, with the highest rates of reporting being found simultaneously among the most elite (those of independent means) and the least well-off (those in the unskilled labourer category). Clearly pursuers who sought a separation could suffer economic abuse regardless of wealth.

In the DivDB the broader picture was similar. Reports of economic or economic-emotional abuse were made by couples from each of the occupation categories present in the database, except for the single case where the husband’s occupation was unknown, although this exception is not significant. The rate of reporting among divorce cases was more varied than in the separation cases, ranging from 50 per cent through to 100 per cent. Interestingly, a correlation between increased wealth and reduced reporting of economic or economic-emotional abuse can be observed among the divorce cases. The rate of reporting steadily decreases from 100 per cent at the unskilled level to 50 per cent at the professional occupation level. Given the incredibly low level of reporting in the CCDB, no occupational trends of any

significance can be discerned. While 25 per cent of those in the skilled occupation category who appeared in the police courts reported economic abuse, in real terms there were only a total of four cases in this category.

5.2 Gendered Economic Abuse

In this section the expectations held by husbands and wives of the economic labour their spouse was supposed to provide during marriage will be considered. Based on the separate spheres ideology that positioned husbands as the breadwinner and wives as the household managers, this section will explore how far these expectations were held up in reality, and whether failure to maintain these roles could be considered unreasonable by Victorian husbands and wives, and signal that a marriage was irreparable.

5.2.1 Failure as Breadwinner

By the Victorian period, separate spheres ideology dictated that husbands were “to be breadwinners who supported and protected their wives”.³ Belief in the importance of this role was used as justification for working-class men’s demands for higher wages.⁴ Anna Clark and others have questioned whether enthusiasm for a male breadwinner wage was motivated by self-interest, or a genuine concern for women and children.⁵ However, how wives engaged with the husband’s breadwinner role has not yet been adequately explored in Scotland. The complaints of cruelly treated wives uncovered in this research suggest that in Victorian Glasgow at least, wives considered their husbands entirely responsible for providing for the family financially. While A. J. Hammerton has identified that wives’ complaints about their husbands’ “breadwinning capacities” has “linked gender identity to class identity” among the middle classes, this section will show this connection was present across the class spectrum.⁶

³ Anna Clark, “Domesticity and the Problem of Wifebeating in Nineteenth-Century Britain: Working-Class Culture, Law and Politics,” in *Everyday Violence in Britain, 1850-1950: Gender and Class*, ed. Shani D’Cruze, Women and Men in History (Harlow, England New York, 2000), 27.

⁴ Clark, *The Struggle for the Breeches*, 197–98.

⁵ Ibid.

⁶ Hammerton, *Cruelty and Companionship*, 101.



Figure 5.4 Percentage of cases that reported behaviour type ‘economic neglect’, by husband’s occupation category

Categorised as economic neglect in the databases, a husband’s failure to financially support his family was reported in all three databases, although at varying levels. As Elizabeth Foyster has observed, “failure to supply necessities could be central to women’s definitions of cruelty”.⁷ There were 59 cases of separation (48.36 per cent) that included at least one accusation of economic neglect; 19 cases of divorce (38 per cent), and just one criminal court case (0.21 per cent). The figure for both the DivDB and SepDB is greater than that found by Joanne Begiato (Bailey). In her study of newspaper advertisements, and legal, ecclesiastic, and parish records related to marriages that were in difficulty between 1600 and 1800, she found 21 per cent of wives complained their husbands failed to provide for the household.⁸ However, as Begiato (Bailey) has revealed, there was no sign that wives expected to be maintained in exchange for their obedience to their husbands.⁹ As Figure 5.4 shows, in the SepDB at least, accusations of this behaviour could be found across the class spectrum. Meanwhile, in the DivDB the accusations were made in each group except the professional occupation and unknown categories. The only CCDB case was from the unskilled labour category. While most of the occupation categories reported economic neglect at a fairly similar level, the unskilled

⁷ Foyster, *Marital Violence*, 2005, 49.

⁸ Bailey, *Unquiet Lives*, 64.

⁹ *Ibid.*, 198–99.

labour category evidently reported the behaviour the most. Understanding the qualitative details of these complaints goes some way to explaining their prevalence among cases from the unskilled labour category.

At its core, the content of economic neglect complaints was similar across the class spectrum. Fundamentally, wives were speaking out about how they were unable to survive on the “trifling sums” that their husbands provided them with, either while cohabiting or living separately.¹⁰ Cases from the level of skilled occupation and below went further in their descriptions of economic neglect than more elite cases. Here, victims additionally complained of not having adequate access to necessities such as food and shelter.¹¹ Such behaviour could easily become life threatening. Just a slight reduction in the allowance a husband gave to his wife would be more keenly felt by victims in the unskilled labour category than those more well-off. Informal support networks available to wives in the unskilled labour category would not likely have coped with supporting her and any children of the marriage indefinitely. Therefore, for unskilled labour victims economic neglect could very quickly become a serious issue, which goes some way to explaining why it was reported most by couples from this category.

Although complaints of economic neglect were clearly present across the class spectrum, their presence across the period was more complex. As Figure 5.5 shows, all four of the separation cases that were brought in the 1840s included reports of economic neglect. However, this initial high was greatly reduced by the 1850s before a complete dearth of reports in the 1860s. In the 1870s, reporting began again and grew for the remainder of the century. In the DivDB, reports of economic neglect only began to be seen in the 1880s and increased in the 1890s, the same decade that the only CCDB case that reported economic neglect was heard.¹² In short, after initially being routinely reported by victims of marital cruelty, economic neglect was not commonly reported at all until a resurgence began in the 1870s that remained for the rest of the decade. Arguably this timeline adheres to Anna Clark’s theories around emancipation and the breadwinner wage. Clark has argued that it was the breadwinning wage that skilled, urban men could command that made them worthy of the vote in the Reform Act of 1867.¹³ This would imply that belief in the breadwinner ideal was widespread by the late

¹⁰ National Records of Scotland, Edinburgh (hereafter, NRS), CS46/1890/7/161, Summons.

¹¹ NRS, CS46/1898/5/44, Summons.

¹² NB: There were no cases in the DivDB in the 1900s.

¹³ Clark, *The Struggle for the Breeches*, 269–269.

1860s. Thus, it follows that wives whose husbands failed to uphold this ideal began to complain of this issue increasingly in cases brought from the 1870s onwards.

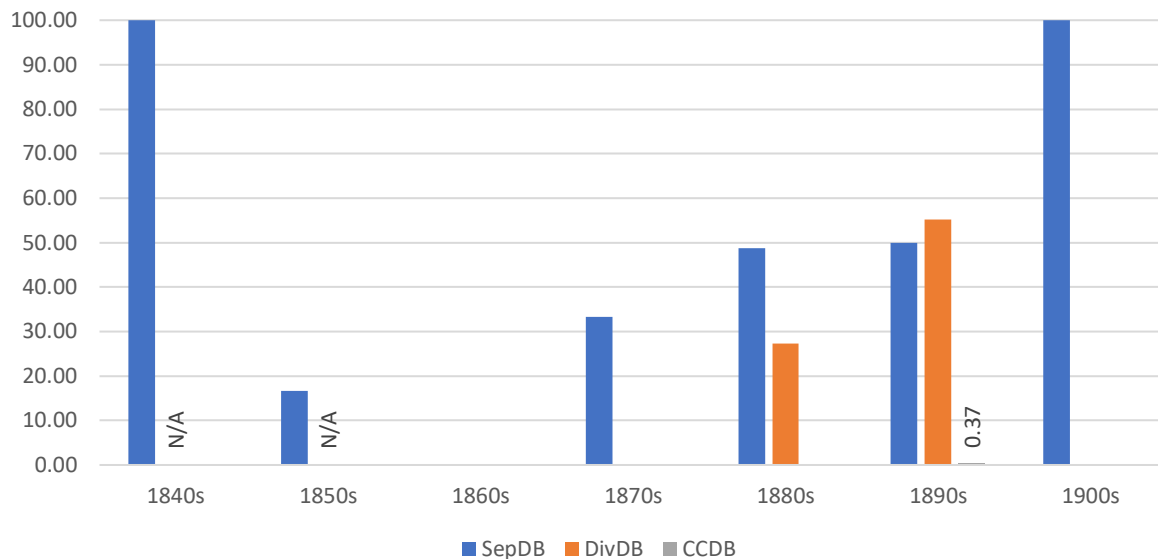


Figure 5.5 Percentage of cases that reported behaviour type ‘economic neglect’, by decade

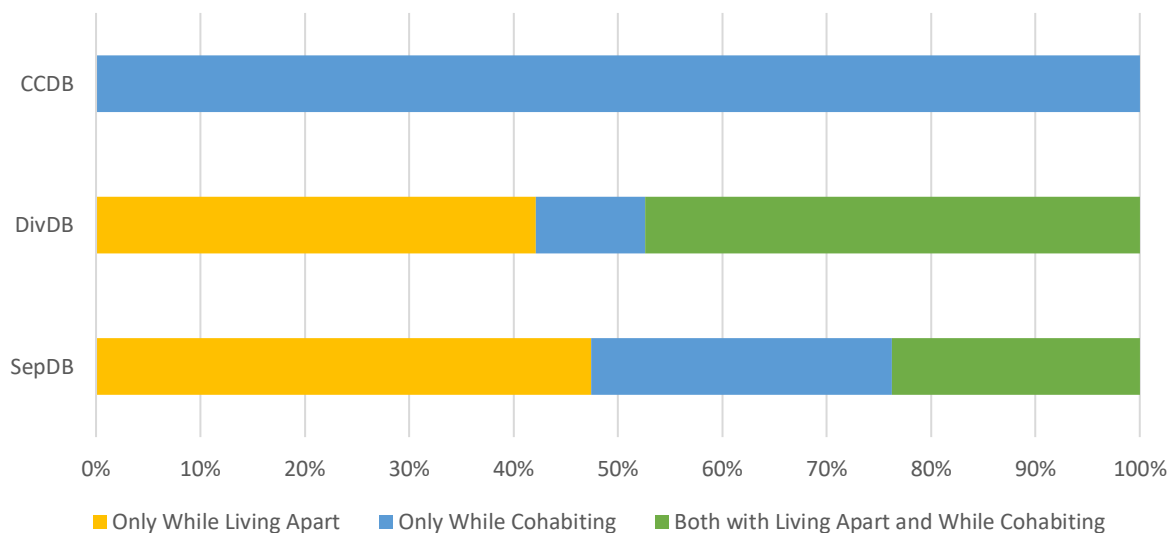


Figure 5.6 Distribution of living situations at the time behaviour type ‘economic neglect’ was alleged to have happened

(NB: a single SepDB or DivDB case could report ‘economic neglect’ multiple times so the living situation could vary)

Importantly, economic neglect could occur while couples were cohabiting, when they were living separately, or under both circumstances (Figure 5.6). This time spent apart could be short term. John Forbes routinely left his family in Glasgow while he worked in England for a few months at a time. On one occasion he went to Belfast for work without telling his wife where he was going for three months. Importantly, while he was working away John failed to send money home to his wife to support his family.¹⁴ When economic neglect occurred while the perpetrator was absent, it was more often associated with longer term absences that qualified as legal desertion. For example, when John Gemmill left Scotland for Melbourne in February 1883 he stopped supporting his wife financially and she never saw him again.¹⁵ Even if the wife had some agency in the couple's decision to live separately, examples such as Margaret Stewart's explain that she would still consider it her husband's duty to aliment her. In January 1849, Margaret Stewart informed her husband John Scott that she wished to return to her parents' home to escape his cruel behaviour. Both Margaret and John resided with Margaret's parents for some time – Margaret believed John came with her either to annoy her or to prevent her from speaking of her cruelty – then John returned to Glasgow. Margaret requested that her paraphernalia be returned and that she be alimented, but John refused.

When economic neglect occurred during cohabitation, the substance of the complaint remained that the husband was not providing enough for his wife and family to survive. Although most cases went no further than accusing the husband of failing to adequately provide for his wife, there were some that provided explanations about the form that economic neglect took in their case. In three of the separation cases that reported economic neglect, the wives explained that their husband had restricted their credit.¹⁶ A unique form of economic neglect can be found in the 1897 divorce case of Emmeline Baker against Thomas Stewart. After Emmeline gave birth in July 1891, Thomas refused to pay for anything the doctor had prescribed her. Unlike the form of psychological neglect 'refusal of medical treatment', this example is primarily economic in nature. John was not preventing medical treatment outright – Thomas allowed Emmeline's mother to pay the bills – he was simply refusing to pay for it himself.

Alcoholism was explicitly identified as the cause of a husband's reduced finances in four of the 59 separation cases that reported economic neglect and one of the 19 divorce cases. In a further three separation cases, the language implies that the husbands neglected their wives

¹⁴ NRS, CS46/1898/1/48, Summons.

¹⁵ NRS, CS46/1890/8/33, Summons.

¹⁶ NRS, CS46/1885/10/58, Summons; NRS, CS246/1506, Summons; NRS, CS46/1874/7/73, Summons.

economically because of their alcoholism: in two the husband was described as “squandering” his wages, while in a third he was accused of “spending all his wages on himself”. This brings the total to seven separation cases (5.74 per cent of all separation cases, 11.86 per cent of the 59 separation cases involving accusations of economic neglect). A less conclusive connection can be seen in the overlap of reporting of alcoholism and economic neglect. In 11 of the 19 divorce cases that reported economic neglect, one of the other behaviours reported during the case was alcoholism. In the SepDB, 36 of the 59 cases that reported economic neglect also reported alcoholism.

Accusations connecting economic neglect with alcoholism were not restricted to the working classes. Mary McElmail’s husband John Lundie was worth seven thousand pounds when they married in 1870. John’s father, also John, gave him an additional £1500 to allow him to start a business. Rather than using the money to grow his wealth as his father had intended and Mary had hoped, John squandered the whole lot on drinking.¹⁷

The role of alcohol and economic abuse can be further understood through the lesser reported behaviour type ‘unemployment’. Seven wives in the SepDB (5.74 per cent) and five wives in DivDB (10 per cent) complained of their husband’s under- or unemployment. In six of the seven separation cases and four of the five divorce cases the wives explained that their husbands had “given way to drink” and that this caused them to lose positions and left them unable to gain new employment.¹⁸ Alexander Lauder had a respectable position as the overseer at the Chapelhall Iron Works. As well as wages of £120 a year, the position had wages in kind in the form of a house and a supply of coal. In April 1874 though, these benefits were lost when Alexander was dismissed from the position because of his dissipated habits.¹⁹ Peter Fergus was a skilled tradesman, employed as an electrician by his father-in-law, Mr Harvie, until March 1893 when Mr Harvie dismissed him for drunkenness.²⁰

One rare cause of economic neglect was gambling. Just two wives in the divorce cases (4 per cent of divorce cases surveyed) accused their husbands of gambling away their money, and there were no accusations of this behaviour in the separations or criminal court cases. Both women then took different routes to maintain themselves. 35-year-old Mary Orr claimed that her husband “had become addicted to betting and neglected his business to attend race

¹⁷ NRS, CS243/3825, Summons.

¹⁸ In the remaining separation case that made an accusation of unemployment the husband was simply accused of not seeking employment for a year after the couple had moved to Glasgow, and in the remaining divorce case gambling caused the husband’s estate to be sequestrated meaning he lost his jewellery company.

¹⁹ CS46/1876/6/82, Summons.

²⁰ CS46/1894//24, Proofs.

meetings”. Her husband William Wiseman was a jeweller, but in 1894 his business was sequestrated. During her testimony Mary explained that one of the techniques she used to get money when her husband failed to provide for her was to sell his life insurance policy.²¹ Horse dealer Charles Robertson was accused of gambling and drinking. His wife Mary Blackwood explained that he “rapidly went through his means” leaving little for her to run the household with. By the time Mary brought her case in 1899, Charles had deserted her and was living in the United States of America. Mary was maintained herself as the lessee of the Waverley Temperance Hotel in Glasgow.²²

While some examples of economic neglect during cohabitation can in part be explained by what would today be understood as addictions, others were more explicitly malicious. Wives in three cases from the SepDB that cited economic neglect specifically noted that their husbands failed to provide them with money to run the home, despite having a sufficient income. Charles McLachlan and Agnes Main were married in Shettleston in 1892. Although Agnes explained that Charles became an alcoholic soon after their marriage, she claimed that this did not affect his earning capabilities and he was “earning upwards of three pounds per fortnight”. Despite this, he “[failed] to provide [Agnes] with board, lodgings and clothing during the period of their married life”.²³ While it is possible that many of the other husbands who were accused of economic neglect during cohabitation were earning adequate wages to maintain their families and deliberately choosing not to pass them over to their wives, this behaviour was only mentioned explicitly in three separation cases (2.46 per cent of all the separation cases, 9.67 per cent of the 31 separation cases that cited economic neglect during cohabitation [Figure 5.6]). The lesser act of simply failing to provide is further validated by the fact that only three wives took the time to note explicitly that their husbands were failing to provide for them *despite* adequate earnings. Almost half of the Glaswegian wives who sought separations and more than a third of those who sought divorces during the Victorian period evidently believed that it was their husband’s duty to provide for them financially. It may be that the lessons of separate spheres ideology – that a husband should provide for his wife financially – were well engrained in the beliefs of wives across the class spectrum especially in the final three decades of the nineteenth century. However, it might just as easily have been a simple understanding of the reality of life that separate spheres ideology had played a part in

²¹ NRS, CS46/1899/10/67, Summons.

²² NRS, CS46/1900/3/24, Proofs.

²³ NRS, CS243/5085, Summons.

creating: that a man's earning capabilities were considerably higher than a woman's, and someone still had to do the work of managing the household.

As will be discussed below, when a wife failed to manage the household effectively with her husband's income, she became vulnerable to criticism. Wives with cruel husbands would also have known that being unable to make the household income cover all the necessary costs would make them susceptible to other forms of cruelty too. Mary Hume's husband David MacDonald had given her no money for household expenses for some time by March 1885. When David came home one day that month and found there was no dinner ready for him – because Mary had had no means to buy any food – he began to physically assault her regardless.²⁴ When a husband did not provide financially for the family then, wives had to turn elsewhere for support lest they face repercussions.

Some wives relied on the support of their family and friends, or the authorities. Elizabeth Russell, wife of landowner Duncan Campbell Paterson, was never allowed any money by her husband. She explained that she was entirely dependent on her father, a wealthy merchant, for her income.²⁵ After joiner William Lennox left his wife Margaret MacPherson in April 1900, he only paid her an aliment of seven shillings a week. Margaret, who had become deaf in consequence of William's treatment of her during their ten-year marriage, was entirely dependent on formal charity and the help of her neighbours to survive.²⁶ Rather than relying on charity, Margaret Hendry applied to the parish and was admitted to the poor's roll on the 26 February 1891. Her husband, Daniel Strathern, was a retired ship carpenter who suffered from asthma and heart disease, and who contributed nothing to her support.²⁷ At 65 years old, perhaps it was Margaret's age that qualified her for support from the state rather than the cruelty of her husband, because this was the only example of a wife being awarded poor relief in this way. Examples such as these, and other forms of short-term relief, will be discussed in more detail in Chapter Eight.

Some wives also had another option when their husbands failed to support them economically: to work. For example, Isabella Barr ran a fruit business for a number of years while she was married to John Bell. When she raised a separation case in 1883, she stated that she did not want money for herself from her husband, but that he should contribute towards the upbringing of their seven children. Cases in which wives complained that they had to take on

²⁴ NRS, CS246/1506, Summons.

²⁵ NRS, CS230/R/10/3, Summons.

²⁶ NRS, CS46/1900/11/24, Proofs.

²⁷ NRS, CS243/6780, Summons.

work increased from the 1870s.²⁸ These women did not come from either the professional or independent means occupation categories (Figure 5.7). Wealthier wives would have been more likely to be able to rely on the relief of family members. In the SepDB, the occupation category with the most reports that the wife had been forced to find paid work was the unskilled labour category. Here, 40 per cent (4 cases) of wives reported that they were left with no alternative but to work themselves to manage the household budgets. There was a clear correlation in separation cases between increased wealth and decreased likeliness of the wife being in the position of needing to seek paid employment. This pattern is less clear in the divorce cases, where the sample size was smaller. The prevalence of wives from the unskilled labour category complaining that they were forced to seek work shows that even wives from the lowest paid occupation categories expected that their husband's earnings should be able to support the whole family.



Figure 5.7 Percentage of cases that reported that the wife had to work, by husband's occupation category

²⁸ The single mention of this tag in the CCDB was made in 1854, though technically the wife herself did not make the complaint but instead it was mentioned by the judge that she “by her industry had maintained [her children] and her worthless husband for the last three months”.

While this complaint was not recorded as a form of unreasonable behaviour in its own right – it being a consequence of the more commonly reported behaviour economic neglect – it has been useful to track. As Clark and others have argued, separate spheres ideology was least achievable to the working classes because husbands' salaries were insufficient. What this complaint shows is that, notwithstanding the reality of poor wages, working-class wives in later Victorian Glasgow still aspired to achieve the balance of roles outlined by separate spheres ideology: that the wife was to manage the home while the husband earned the money needed to sustain the family. While the rate of reporting decreased as the husband's earning power increased, it remained present in the categories up to skilled occupation category, signalling the affront that wives felt when they had to enter paid employment.²⁹

Of the seventeen separation cases and seven divorce cases where wives explicitly complained of having to work to support themselves, the details of the jobs they undertook were given seventeen times. Twelve women stated that they undertook roles in the job market that have been traditionally considered women's work: keeping lodgers, sewing, domestic service, factory work, laundry work, and dressmaking. Five women undertook more skilled labour. Jane Lapsley was trained at the Edinburgh Maternity Hospital to become a midwife.³⁰ Isabella Dunlop inherited and ran her late father's confectionary business.³¹ Elizabeth Purvis employed several women in the laundry business that she formed to make money because her husband spent all his wages on drink.³²

Glaswegian Victorian wives considered their husband's failure to provide for the family as economic cruelty. Although this behaviour was a particularly serious issue in lower-income households, hence the higher rate of reporting among those occupation categories, it was present across the class spectrum. This behaviour, which could occur while couples were cohabiting and while the husband was living away, stemmed from two forms. On the one hand the behaviour could be caused by the husband's addictions (alcoholism or gambling) and the subsequent detrimental effects this had on his employability. On the other hand, the economic neglect could come from a place of malice. When faced with economic neglect some victims were able to rely on the charity of others and this theme will be developed further in Chapter Eight. Other wives found work for themselves to fill the gap left when their husbands failed to provide.

²⁹ While it is not present in the armed forces category, there was only one case in this category in the CCDB.

³⁰ NRS, CS46/1882/10/19, Summons.

³¹ NRS, CS243/777, Summons.

³² NRS, CS46/1885/7/25, Summons.

5.2.2 Failure as Household Manager

If separate spheres dictated that a good husband was to provide financially for his wife and children, a good wife was supposed to manage the household with whatever funds her husband supplied. In total nine husbands in the SepDB (7.37 per cent of the total cases) reported that their wives had poor household management skills, and six husbands from the DivDB (12 per cent of the total cases). Husbands made these accusations as both pursuers and defenders. In other words, these were issues that contributed to a husband's decision to raise a CoS case, but they were also used to justify allegations of unreasonable behaviour. Among divorces cases, pursuers were most likely to raise this accusation: 25 per cent of male pursuers in the DivDB (five cases) included the accusation, compared with 3.33 per cent of male defenders in the DivDB (one case). In the SepDB the accusations all came from defenders: 7.5 per cent of male defenders in the SepDB (nine cases) made such allegations. While wives accused their husbands of failing as breadwinners in general terms, husbands' accusations of poor household management were more specific. Three distinct but connected behaviour types make up this category of complaints: pawning, extravagance, and expropriation. This section will interrogate these individually before assessing the broader theme of the accusations.

Three husbands in separation cases (2.46 per cent) and three husbands in divorce cases (6 per cent) described pawning as an unreasonable behaviour. Although pawning was something men could do too, in the context of this research, pawning was a particularly female "offence". Just one wife in the SepDB, Mary O'Connor, accused her husband, Patrick McKenna, of unreasonably pawning goods. Patrick would take the clothes off the children and pawn them for money to buy alcohol. He was the antithesis of a good husband and father: rather than providing for his children as he was supposed to, Patrick was taking from them.³³ While this example of a husband pawning items is unique across the three databases, the reasoning behind the pawning – to enable him to purchase alcohol – was present in the allegations against wives. Pawning was also primarily reported in the 1890s; just one of the six cases to cite pawning was brought earlier in 1872. In terms of class, this accusation was limited to the lower income categories of unskilled labour through to skilled occupation. Given that wealthier people had other means of securing cash or credit, this is not surprising.

³³ NRS, CS243/5132, Summons.

Although used as a survival mechanism by housewives who needed to balance their budgets, many husbands considered the pawning of goods unreasonable.³⁴ Only one case suggested that the grievance arose from the loss of an item with sentimental value rather than the act of pawning. During his defences, Thomas Cuthbert complained that in November 1897 his wife Isabella McCallum pawned his gold watch and albert chain for money to buy alcohol.³⁵ Husbands' accusations from the five remaining cases were of a more generalised nature. Documents would state, for example, "the defender remonstrated with the pursuer... regarding a quantity of pawn tickets belonging to her, which the defender had found secreted in the house". This suggests it was the need to pawn – signalling poor management of money – rather than the loss of the goods that was at the root of the husband's complaint.³⁶

A notable pattern in accusations of pawning was the connection with alcoholism. Three of the six accusations mentioned that the pawning was used to obtain money to buy alcohol. Wine and spirit merchant James Gilliland stated, during his 1897 divorce trial, that his wife Mary Shearer would pawn the household goods and her own jewellery, and neglect her home and children, because she "indulged to excess in drink".³⁷ In these cases, the spouse's unreasonableness was doubly financially detrimental. As discussed earlier in this chapter, alcoholism could be a financial issue not only because it drained the household income but also because it caused husbands to neglect or lose paid work. Accusations of pawning clearly show that alcoholism was a financial drain when suffered by wives too. While wives were not necessarily producing an income, the loss of their unpaid labour in the home had economic implications. The psychological damage victims suffered because of alcoholism was introduced and discussed extensively in Chapter Four, but this chapter has shown it was also mentally straining because of the financial consequences of addiction.

Being extravagant was a behaviour that only wives were accused of. In the SepDB the accusation was made by five husbands during their defences (4.1 per cent of the total number of cases). The accusation was only made once in the DivDB (2 per cent of cases), and in this case it was by a male pursuer. Despite not being reported in great numbers, this accusation was made across the century. In terms of class, as with pawning, reporting was limited to the lower income categories, with two cases from each the skilled labour, skilled trade, and skilled occupation categories making accusations. The lack of examples from the very top and very

³⁴ Elizabeth Roberts, *A Woman's Place: An Oral History of Working-Class Women 1890-1940* (Oxford, 1984), 149.

³⁵ NRS, CS46/1898/3/80, Defences.

³⁶ NRS, CS46/1899/10/76, Defences.

³⁷ NRS, CS46/1897/6/92, Summons.

bottom of the class spectrum could be because extravagance was less discernible among the wealthiest and less possible among the poorest. By way of comparison, Begiato (Bailey) observed in legal, ecclesiastic, and parish records, and newspaper advertisements, from the 17th and 18th centuries, that husbands who complained of their wife's extravagance in 10 per cent of cases.³⁸ The different laws regarding women's property rights, and the lack of common law *couverture* in Scotland, might account for the slight difference in concern with extravagant wives.

James Littlejohn, a drayman living in Irvine, was unique in accusing his wife Agnes Brown of "extravagance in the management of the household" during his Summons.³⁹ This was more commonly an accusation made during a husband's defences. It had the power to portray the wife as a difficult woman, which the defender likely hoped would sway the Lord Ordinary's view of the pursuer. In 1849, farmer John Gilmour claimed that his wife Janet McKinnon was so extravagant in her spending that she lived beyond his means.⁴⁰ In this accusation John implied that his wife was unruly. More explicit was Peter Williams' claim in 1880 that his wife Margaret Downie was extravagant, and "would not be controlled by [Peter]; she would not listen to [him]."⁴¹ These examples speak to how the unreasonableness of extravagant wives went beyond economic wrongdoing. These wives could not be controlled by their husbands and this was having detrimental economic repercussions. As well as being efficient household managers, husbands also expected their wives to be obedient.

The third and final behaviour that, in a similar vein to pawning and extravagance, contributed to a wife's failure at household management was 'expropriation'. This behaviour refers to occasions when one spouse stole something from the other. There were five cases that included allegations of expropriation by wives against their husbands: two separation cases (1.64 per cent) and three divorce cases (6 per cent). In both the separation cases and one of the divorce cases, the husband making the accusation of expropriation against his wife was in the skilled occupation category and the cases were brought in the 1860s, 1870s and 1890s. Where the husband was the pursuer, in the remaining two divorce cases, one was in the skilled labour category in the 1870s and the other was in the professional occupation category in the 1890s. As with the other forms of poor household management that have been explored, the essence of this unreasonable behaviour was the damage it had on a husband's position of control in the

³⁸ Bailey, *Unquiet Lives*, 73.

³⁹ NRS, CS46/1880/12/61, Summons.

⁴⁰ NRS, CS237/Mc/21/3, Defences.

⁴¹ NRS, CS46/1881/3/14, Proofs.

marriage. Alexander MacQueen's wife Mary Rigg had taken money and articles belonging to him, which amounted to £9, that she, in her husband's opinion, had no right to.⁴² Alexander Lauder took issue with the fact that his wife Margaret Lammie had sold £200 worth of their household furniture, without his authority. Alexander made this point in response to the condescendence that accused him of failing as the breadwinner because he had lost his job – worth £120 per annum plus house and coals – due to his alcoholism.⁴³ While a wife was supposed to manage the household, this duty did not extend to making financial decisions without their husband's permission.

Despite the small rate of reporting, studying the examples of husbands who considered their wives to have been unsuccessful household managers offers illuminating insights. For husbands, these forms of economic abuse were unreasonable because they expected to have a level of control over their wives and, be it through a wife's pawning, extravagance, or expropriation, this power was usurped. Although separate spheres encouraged a division of responsibility within the family, these examples suggest that an equal partnership between husband and wife was neither expected nor desirable to husbands. As Barclay and Hammerton have argued, separate spheres did not end patriarchal power but simply altered its appearance.⁴⁴ It is worth noting that a wife's failure as a household manager did not cause husbands to leave their wives. Rather, it was primarily complained of as part of the defences in separation cases. Husbands did not act react to this behaviour by seeking a separation but instead raised it as an issue while defending themselves against allegations of cruelty.

5.3 Controlling Economic Abuse

Some victims complained of 'property destruction': a controlling economic-psychological behaviour type. Through the destruction of property an abuser asserted dominance and control over their victim. Though this behaviour was also a form of psychological abuse – the victim might have been intimidated by the act – it warrants discussion in this chapter because of the financial implications of the broken property.

Property destruction was mentioned in all three databases, though at varying rates. In the CCDB, the behaviour was mentioned in 5 cases (1.02 per cent of all cases). The rate of reporting was similarly low among divorces: there were three cases in the DivDB (6 per cent)

⁴² NRS, CS46/1865/7/147, Defences.

⁴³ NRS, CS46/1876/6/82, Defences.

⁴⁴ Barclay, *Love, Intimacy and Power*, 8; Hammerton, *Cruelty and Companionship*, 169.

which included allegations of property destruction. In the SepDB however, reporting was more significant: around one in five cases involved accusations of property destruction (28 cases, 22.95 per cent). Despite having the lowest rate of reporting, the reports from the CCDB were as diverse in terms of class as the those from the SepDB (Figure 5.8). Meanwhile, the reports from the DivDB were restricted to the middle-class categories of skilled trade and skilled occupation. In the DivDB the rate of reporting increased as income increased; however, this pattern was not apparent in the SepDB, and it was statistically insignificant in the CCDB.



Figure 5.8 Percentage of cases that reported behaviour type ‘property destruction’, by husband’s occupation category

Among separation cases, reports of property destruction peaked at 60 per cent (three cases) in the 1860s. The rate was lower slightly in the 1870s and 1900s, where 46.67 per cent (seven cases) and 42.86 per cent (three cases) of separation cases respectively alleged the behaviour. Except in the 1840s when no separation cases mentioned this behaviour, the level of reporting was between 10 and 20 per cent in the rest of the period. As Figure 5.9 shows, the rate of change over time in the CCDB was negligible and in the DivDB this behaviour was only reported by cases in the 1890s. Finally, it is worth noting that this complaint was made overwhelmingly, though not exclusively, by wives. In each database there was just one case that involved a husband accusing his wife of property destruction.

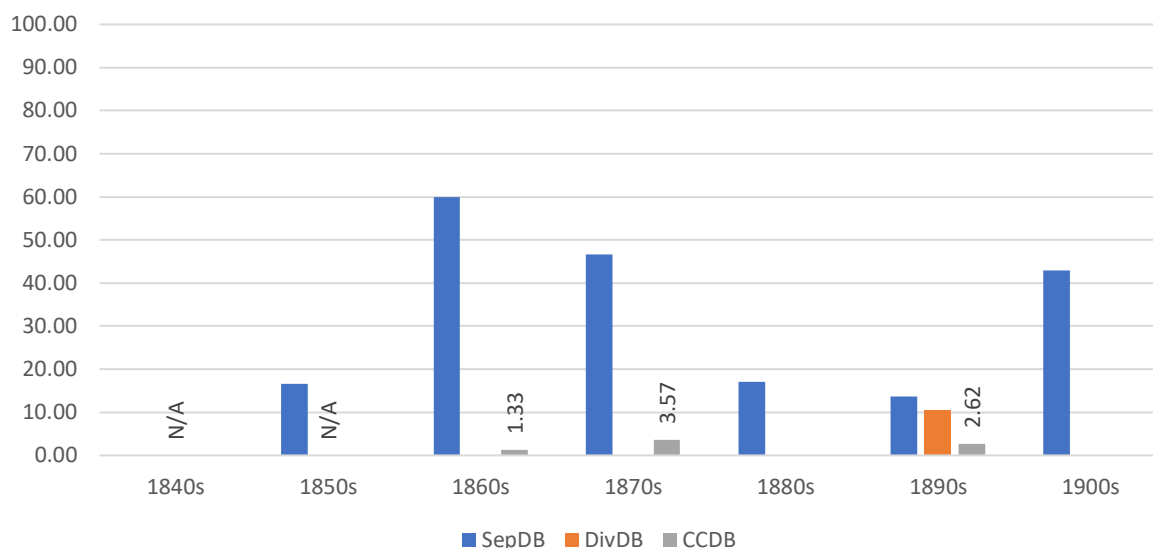


Figure 5.9 Percentage of cases that reported behaviour type ‘property destruction’, by decade

Property destruction could be both psychologically and economically debilitating to victims. In practice the balance between these two forms of cruelty varied. Shopkeeper James Buchanan reported that he often had to spend money restoring his bedroom door because his wife Marion McKellar repeatedly broke it. James explained that he would go into the bedroom for peace from his wife, but that she would smash the door demanding that he give her money to buy alcohol with. This happened so regularly that he “was obliged at last to put an iron plate on it to protect himself from [Marion]”.⁴⁵ As well as the financial costs James incurred while repeatedly fixing the bedroom door, this repeated act was psychologically cruel because of Marion’s repeated, violent incursion into James’ space.

The destruction of property was, on some occasions, a substitute for abusing the victim physically. This theory was explicitly stated by the victim herself in the 1900 separation case of Jessie Murray against James Mitchell. Jessie stated that on a morning in February 1900 in their Glasgow home, James had broken a number of items that had been sitting on the table “as he could not get his spite out on [her]”.⁴⁶ Importantly, Jessie noted that James had been physically assaulting her before destroying the objects from the table. James had had his hands around Jessie’s neck until their neighbour, Maggie Thomson or Fleming, had come into the room and had caused him to change tack. Presence as a form of help will be discussed in more

⁴⁵ NRS, CS46/1881/6/161, Summons.

⁴⁶ NRS, CS46/1900/12/108, Proofs.

detail in Chapter Eight, but this specific example is worth addressing here too. Maggie's presence altered James' behaviour and caused him to transfer his anger towards objects rather than his wife. Although his anger was redirected, James' behaviour remained threatening, and was a terrifying reminder of his power. The fact that James felt it necessary to change because of the presence of another person suggests he felt uncomfortable physically assaulting his wife in public.

The act of property destruction enabled abusers to cause damage without physically assaulting their victim. Late one evening in August 1881, in the family home at Greenock, Isabella Barr was sitting in the dining room doing the accounts for her business. Isabella ran a fruit business, which was the family's primary source of income after her husband John Bell gave up being a ship master due to intemperance. Suddenly John threw her ledger, passbook and purse into the fire. By destroying these items – and it was specified that much of the money in the purse was paper notes rather than coins – John caused his wife considerable economic harm.⁴⁷

The forms that property destruction could take were clearly varied. The hurt that the behaviour caused to the victim was equally varied, but there were some overarching themes. Property destruction was financially damaging, be it the need to replace or fix the broken items, or the loss of actual money that Isabella Barr suffered. Property destruction was also a visual indicator of the abuser's power. By itself, breaking an object was threatening behaviour. However, in some cases, such as that of Jessie Murray, that the destruction of property was a substitute for personal violence against the victim.

5.4 Economic-Emotional Abuse

Leaving the family home for a period of time was another form of economic abuse that emerged in the sources studied. Some examples met the legal definition of desertion in Scotland (absence for four years or more). Others fell short of this limit. Thus, alongside the behaviour type 'desertion', the 'absent' behaviour type will also be investigated to access those shorter periods of time when a spouse was away from the family home without a reasonable explanation. Examples of desertions – both legal and informal – that included the removal of children from the victim will also be discussed in this section. Finally, 'abandonment' (not providing a spouse with a place to live) will also be considered.

⁴⁷ NRS, CS243/560, Summons.

Desertion was one of the two grounds for divorce in Scotland during the Victorian period, the other being adultery. Preliminary research, conducted in order to design the DivDB sample, found desertion was the primary plea in law in 40.63 per cent of cases.⁴⁸ Whether it met the statutory length or not, a desertion was a form of emotional and economic abuse: emotional, because of the loss of the husband or wife, and economic, because of the loss of income or services the spouse provided. In presenting these complaints, both aspects were given equal attention. William Bannatyne's 1897 Summons stated that his wife Jessie Ferrie had "repeatedly absented herself from the house and her duties".⁴⁹ As such behaviour was not criminal, it was not reported in any form during criminal court proceedings. Therefore, all the data on these behaviours was drawn from the SepDB and DivDB.

In both the SepDB and DivDB, desertion was the second most reported form of economic abuse, second only to economic neglect. Both databases had similar reporting rates in all the behaviour types linked to spouses who left the family home (Table 5.1). Only accusations of desertion were slightly higher in the DivDB than the SepDB. Given the legal requirement to prove either desertion or adultery in divorce cases, it is to be expected that the rate of reporting would be higher in the DivDB.

Table 5.1 Number and percentage of cases that reported behaviour types associated with desertion

Behaviour Type	SepDB		DivDB	
	No. of Cases	Percentage	No. of Cases	Percentage
Desertion	30	24.59	16	32
Desertion with Child	4	3.28	1	2
Absent	17	13.93	6	12
Absent with Child	0	0	1	2
Abandonment	1	0.82	0	0

(NB: there were no CCDB cases that reported these behaviour types)

⁴⁸ See Chapter 1, Section 3, pp. 43-44.

⁴⁹ NRS, CS1897/6/117, Summons.

Desertion was present at almost all levels of society in both the SepDB and DivDB (Figure 5.10). Among the separation cases the rate was relatively similar across the class spectrum, ranging from a low of 14.29 per cent in the independent means category to a high of 28.57 per cent in both the professional occupation and skilled labour categories. However, in the DivDB there were no reports of desertion in the professional occupation category. The range of reporting levels where desertion was present was similarly compact though higher: ranging from 25 per cent in the unskilled labour category to 42.86 per cent in the skilled labour category. The behaviour type ‘absent’ had a very different class profile but was reported at a lower rate, except in the elite independent means occupation category in the SepDB. Independent means category cases in the SepDB, of which there were seven, reported that their spouses were absent considerably more often than any other category: 57.14 per cent (four cases).⁵⁰ As members of the independent means category, these defenders were not required to attend a work place on a regular basis. Thus, they would have suffered fewer economic consequences themselves when they abandoned their family for days or weeks at a time than say, a saddler.

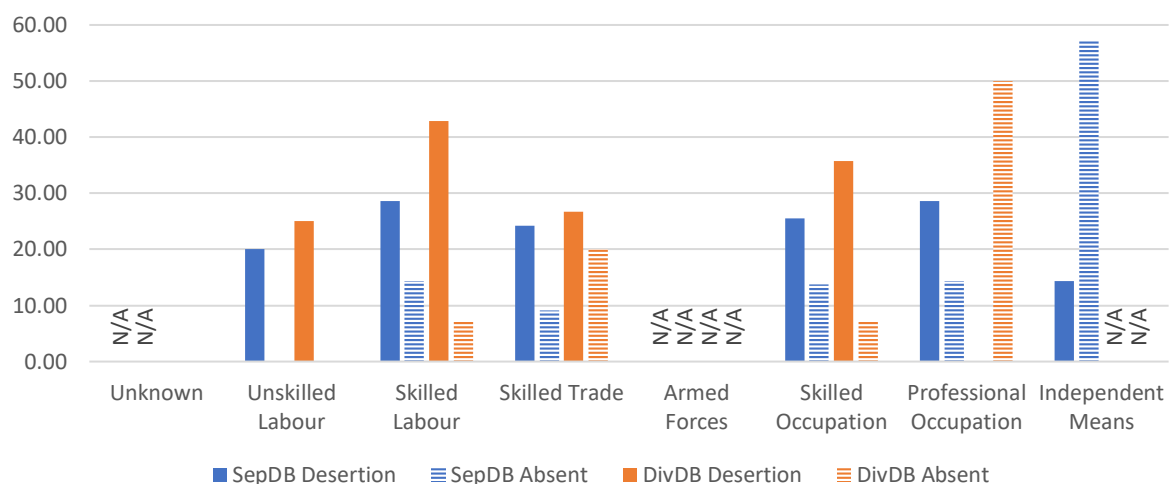


Figure 5.10 Percentage of cases that reported behaviour types ‘desertion’ and ‘absent’, by husband’s occupation category

(NB: there were no CCDB cases that reported this behaviour type)

⁵⁰ Although the professional occupation category in the DivDB also reported absence at a rate of 50 per cent, there were only two cases in this occupation category.

With regards to changes over time in levels of reporting of desertion and absence, the differences between the databases are more prominent. In the SepDB desertion and absence were reported evenly at the start of the period, but towards the end of the period, desertion was reported around twice as much as absence (Figure 5.11). In the sampled cases featured in the DivDB, desertion was not present until the 1870s.⁵¹ While in the SepDB reports of desertion had significantly increased in the 1880s, in the DivDB the opposite was true and reporting dropped to 2.44 per cent. The rate of reporting recovered in the 1890s before dropping off completely in the 1900s. As for reports of absence in the DivDB, they were only present in 1890s in 17.24 per cent of cases brought in that decade – a similar level of reporting to the SepDB at that time. Neither behaviour type was reported in either database in the 1860s at all, though this anomaly cannot be explained.

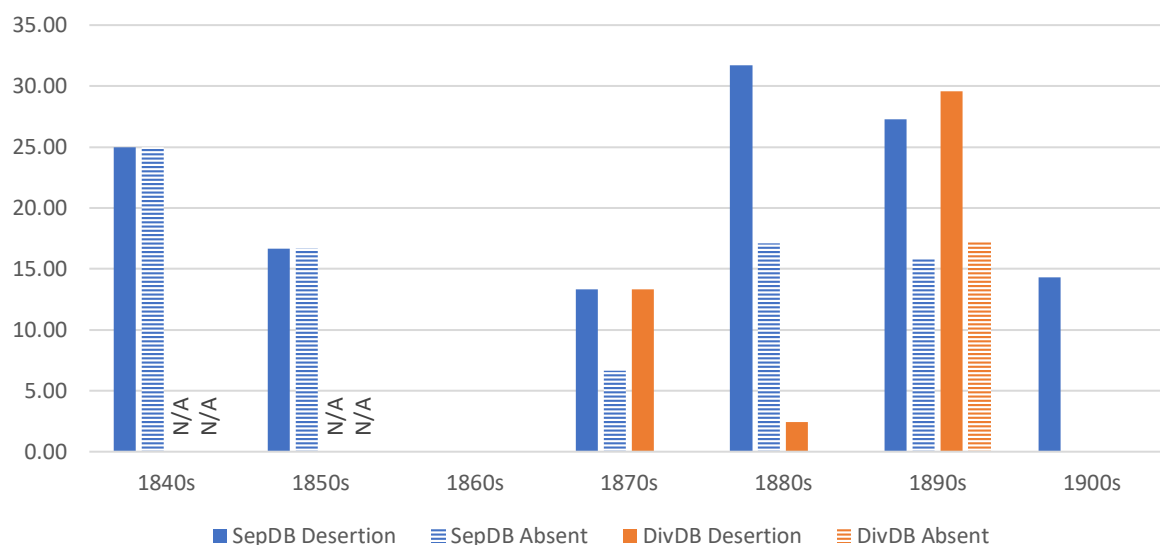


Figure 5.11 Percentage of cases that reported behaviour types ‘desertion’ and ‘absence’, by decade

(NB: there were no CCDB cases that reported this behaviour type)

⁵¹ Just as there were divorces brought before the 1860s that were not included in the DivDB, there were divorces brought on the grounds of desertion before the 1870s that were not included in the DivDB. The DivDB was created as a sample of the 320 divorces found in the NRS to have been brought by couples from the Greater Glasgow region during the Victorian period, and it was representative of the whole in terms of primary grounds for divorce, year proceedings began, and sex of pursuer (see Chapter One, section 3).

Although both husbands and wives complained of desertion and absence – indeed in one case both parties complained simultaneously – Figure 5.12 shows that there was a higher incidence of female victims. Only in the divorce cases was absence reported equally by both sexes. With less earning capabilities, wives suffered financially more than husbands when their spouse deserted them. Thus, they would have been more economically motivated to seek a resolution. Equally, it may have been that husbands were more likely to desert than wives. Determining which factor was more influential is not possible with this dataset though.

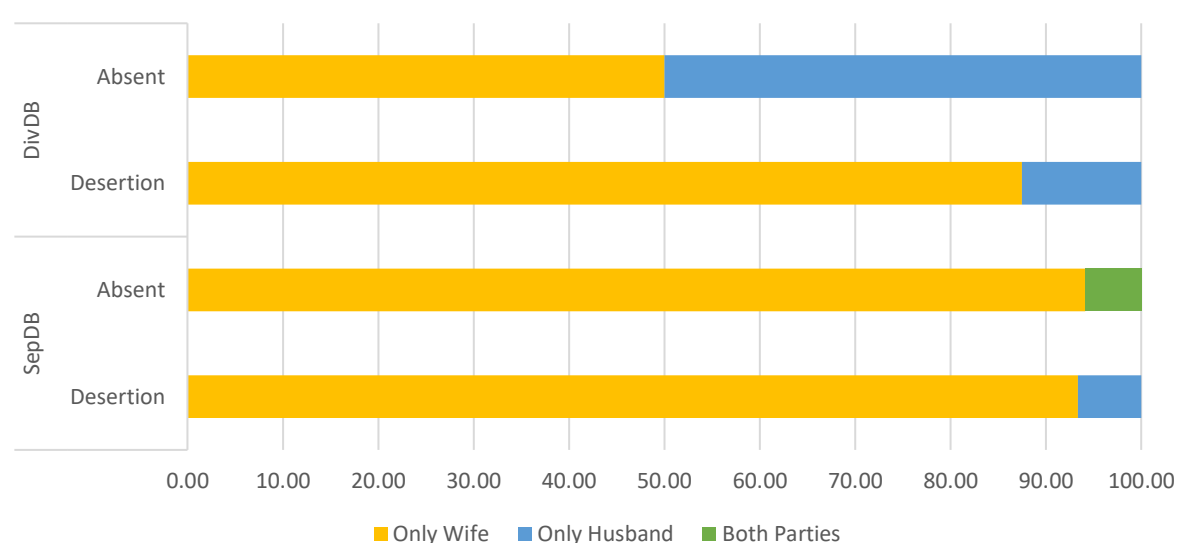


Figure 5.12 The sex breakdown of victims of the behaviour types ‘desertion’ and ‘absence’

(NB: there were no CCDB cases that reported this behaviour type)

The remaining three behaviour types associated with spouses leaving the family home unreasonably – desertion and absence *with child*, and abandonment – were much less commonly reported in the SepDB and DivDB (see Table 5.1). What is interesting about including children in acts of desertion or absence is the distinct lack of cases that did so. There were 30 separation cases that reported desertion. In four cases, the couples had no children. A further 22 of the couples had children that the deserting spouse chose not to take with them. Just four separation cases specifically reported at least one incidence of ‘desertion with child(ren)’. Similarly, nine of the sixteen couples in divorce cases involving desertion had children, but just one case in the sample specified that children were involved in the desertion.

Furthermore, in all six divorce cases that involved the accusation ‘absent’ the couples had children, but there was just one case that reported the separate behaviour type ‘absent with child(ren)’. In the SepDB all four defenders who took the children of the marriage with them when they deserted their spouse were male, while both cases in the DivDB involved female perpetrators. These findings confirm the picture painted by existing histories of desertion: that it was unlikely for deserters to take their children with them when they left their spouse.⁵²

The final behaviour, abandonment, was only mentioned in one separation case (0.82 per cent of separation cases) but it connects to a peculiar definition of desertion that was given in an earlier separation and later divorce case. During the 1894 separation case of Florence Louisa Gibbs against James Stevenson, a former Captain in the 12th Lancers with an independent income, Florence accused James of failing to provide her with a suitable residence for more than five years of their marriage. Florence explained that she was forced to live with her parents and that James would visit her there, sometimes for a few hours but sometimes for a few months. Florence also accused James of endangering her life with physical and psychological abuse, but ultimately Lord Kyllachy assoilzied James. Unfortunately for historians, the proofs of the case no longer exist and Lord Kyllachy’s decision cannot be explained. However, the parallels between this case and the 1844 separation and later divorce case of Elizabeth Russell against Duncan Campbell Paterson are notable. What is different, is the outcome.

Elizabeth and Duncan were married in 1843. Elizabeth came from a wealthy family and while Duncan was a landowner, he was cash-poor. Within a year of marriage, Elizabeth filed for a separation with the Court of Session. Initially, Duncan tried to have the separation case heard in England rather than Scotland on the grounds that Elizabeth was Irish by birth and that they had been married in England. (The Gibbs *ag.* Stevenson case was also heard first in England).⁵³ While Duncan was unsuccessful in this endeavour, Elizabeth’s case was also initially unsuccessful in Scotland and Duncan was assoilzied. Elizabeth then appealed this decision and the decision was overturned.

Things were complicated further when Duncan appealed this decision. As the decision had been made on appeal by the Court of Session, a higher court had to consider Duncan’s appeal. The Court of Session was Scotland’s highest civil court though, so the only court eligible to hear an appeal was the House of Lords. While the case was waiting to be heard in

⁵² See for example: Beverly Schwartzberg, “‘Lots of Them Did That’: Desertion, Bigamy, and Marital Fluidity in Late-Nineteenth-Century America,” *Journal of Social History* 37, no. 3 (Spring 2004): 573–600.

⁵³ The National Archives, Kew, J 77/514/15685, 1893.

the House of Lords, Lord Cunningham recorded his opinions on the case in an extended note. He argued that in not providing Elizabeth with a suitable home, Duncan had forced *her* to leave *him*. To Cunningham, this constituted desertion on Duncan's part.⁵⁴ By the time the House of Lords heard the case it was 1850. The case was quickly overturned in Duncan's favour by the House of Lords. Records of the debates on the case show they spent the majority of the discussion addressing which party was to pay for the costs rather than the facts of the case.⁵⁵

This was still not the end of the road for Elizabeth Russell though. She again approached the Court of Session for help and this time was granted a divorce. While no divorce document has survived to definitively prove this theory, Lord Cunningham's earlier argument that Duncan's maltreatment had forced Elizabeth to leave and constituted desertion on his part appears to have been returned to. Certainly, there was no incidences of adultery by either party and ordinary desertion did not occur either. The couple were certainly divorced as Duncan went on to remarry at least once while Elizabeth was still living.⁵⁶

Lord Cunningham's decision – that a husband who did not provide a comfortable home, economically and emotionally, for his wife, was guilty of desertion, and the wife was therefore entitled to a divorce – provides a small insight into legal understandings of appropriate behaviour in marriage in the early Victorian period. However, the argument could have been applied in Florence Louisa Gibbs' case fifty years later and was not. Thus, it seems likely that it was Elizabeth's considerable wealth that persuaded the Lord Ordinaries to take extreme measures to ensure her escape from her marriage, and not that opinions had significantly shifted by the end of the Victorian period.

Scottish law required desertion to have lasted four years or more before steps could be taken to dissolve the marriage. For those husbands and wives whose spouses left the home though, any length of unjust absence could be unreasonable. Husbands and wives had duties in the marriage and deserting those – be it for four weeks or four years – was unacceptable behaviour. While it was uncommon, this behaviour could be made worse by including children in the process, depriving the victim of access to the children of the marriage.

⁵⁴ NRS, CS230/R/10/3, Interlocutor and Note, April 26, 1848.

⁵⁵ Parliamentary Archives (London, England), 'Appeal Cases and Writs of Error', Series 3, 1850, [HL/PO/JU/4/3/114].

⁵⁶ Irish Genealogy, Death Certificate for Elizabeth Russell formerly Patterson, 25 January 1885, *Deaths Registered in the District of Limerick* (Accessed: 7 July 2020); ScotlandsPeople, Marriage Certificate for Duncan MacIver and Elizabeth Ewart, 22 August 1861, *Statutory Registers of Marriage 490/88* (Accessed: 7 July 2020); NB: when in 1853 Duncan Campbell Patterson, Esq. of Asknish was recognised as the heir of the family of MacIver Campbell of Asknish, he assumed the name Duncan McIvor Campbell of Asknish (*Paisley Herald and Renfrewshire Advertiser*, 20 August 1853).

5.5 Conclusion

Complaints of economic cruelty were some of the most explicitly gendered. In alignment with the separate spheres ideology, Glaswegian Victorian families required the input of both spouses to succeed. If a husband failed in his role as breadwinner then the family suffered. Even if the wife excelled in managing the finances and found paid work herself, the loss of a man's wage was hard to overcome. Most importantly, data from the SepDB and DivDB shows that the male breadwinner wage was a necessity and wives expected their husbands to provide this. Accusations that a husband failed to provide appeared increasingly from the 1870s. This coincides with the dissemination of the breadwinner ideal in Britain.⁵⁷ Likewise, the family was detrimentally affected when a wife was unable to manage the household income. Although husbands complained of this behaviour less frequently than wives complained of their husband's economic failures, these examples are telling. Separate spheres ideology encouraged the division of household labour along precise gender lines, but husbands always expected to maintain the power in the relationship.

Economic abuse could also be connected to other categories of unreasonable behaviour. Property destruction combined economic and psychological abuse. Deliberately breaking items was psychologically threatening because it was a demonstration of the perpetrator's strength and what they *could* do. Simultaneously, it could be financially draining to replace (sometimes repeatedly) the items that were broken. Likewise, desertion and absence were a mixture of economic and emotional abuse. Although the law required a spouse to have been absent for a period of four years before divorce could be granted, this data shows that spouses considered unexplained absences of any length to be unreasonable. Finally, though uncommon, the inclusion of children in acts of absence or desertion constituted additional cruelty.

⁵⁷ Clark, *The Struggle for the Breeches*, 269–70.

Chapter 6 Verbal Cruelty

The final behaviour category that requires attention is verbal abuse. There were two types of unreasonable verbal behaviour that victims reported to the Court of Session and the Police Courts: those which degraded the victim, and those which were aggressive. Degrading forms of verbal abuse – which included insults, degrading language, slander, and silent treatment – worked to belittle the victim. These behaviours differed from verbal aggression, which was unreasonable because it was frightening. As verbal abuse in marriage has not been a focus of historians to date, this thesis will draw on the work of those who have studied verbal abuse in other contexts; most notably Diana Paton's work on violence in language.¹ One reason for the relatively understudied nature of verbal cruelty is that it appears to have often been obscured from the record by legal practices. The evidence recovered in this research suggests that lawyers in divorce cases reported only the most threatening incidents. This left verbal aggression – which the separation cases show so often accompanied physical violence – hidden from the record. Because the crux of a separation case was usually marital cruelty, the descriptions of verbal incidents in those cases were more comprehensive. After introducing the broad patterns of reporting of verbal abuse, this chapter will address the two forms that verbal abuse took individually.

6.1 Broad Reporting Patterns

Verbal abuse was reported in two thirds of separation cases, but in just a quarter of divorce cases, and in less than 1 per cent of criminal court cases (Figure 6.1). The variations between the databases do not stop at the rate of reporting though. In terms of change over time, Figure 6.2 shows that verbal abuse was present consistently across the period in the separations database (SepDB). Reports of verbal abuse in separation cases dropped from 100 to 80 per cent over the first four decades of the period, as the number of cases brought per decade increased. The reporting rate continued to slowly decline from the 1880s, only dipping below 50 per cent in the 1900s. In the divorce database (hereafter, DivDB) reports of verbal abuse were more

¹ Diana Paton, "Gender, Language, Violence and Slavery: Insult in Jamaica, 1800–1838," *Gender & History* 18, no. 2 (2006): 246–65.

intermittent and only appeared in sampled cases from the 1870s and 1890s. While reporting was highest among elites in the SepDB, in the DivDB it was more likely to be reported in cases brought by couples from the working- and middle-classes (Figure 6.3). Only by studying the behaviour types more closely can the lower level of reporting in the DivDB and criminal court database (hereafter, CCDB) be explained.

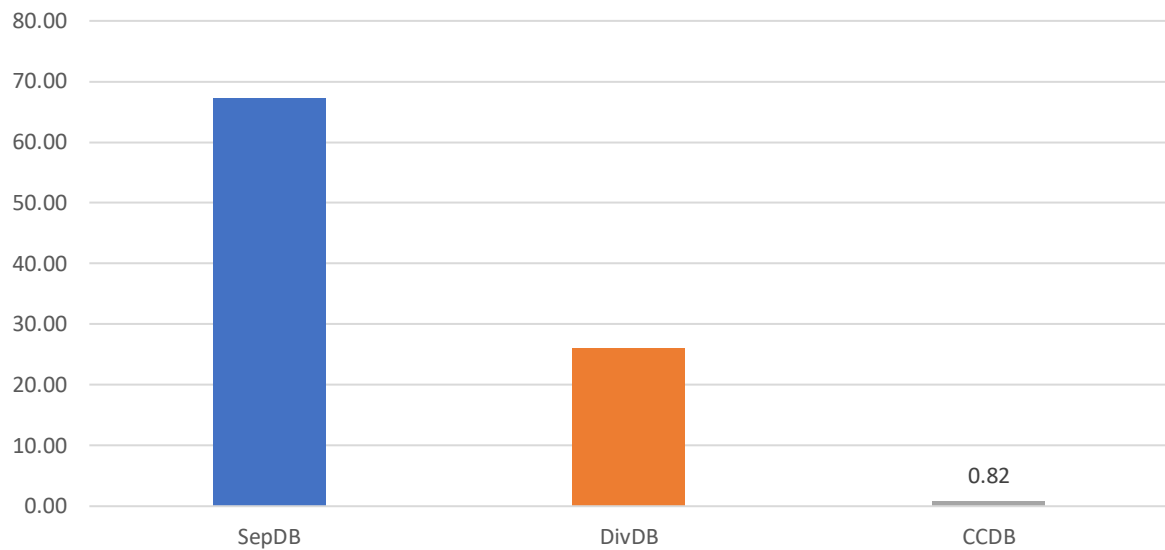


Figure 6.1 Percentage of cases that reported behaviours from the category ‘verbal’

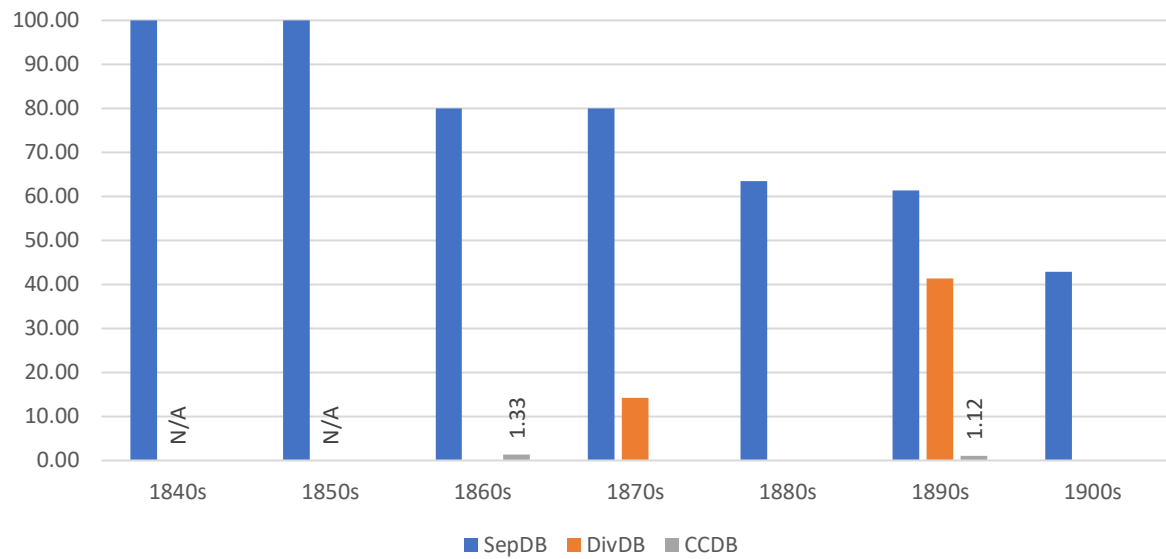


Figure 6.2 *Percentage of cases that reported behaviours from the category ‘verbal’, by decade*

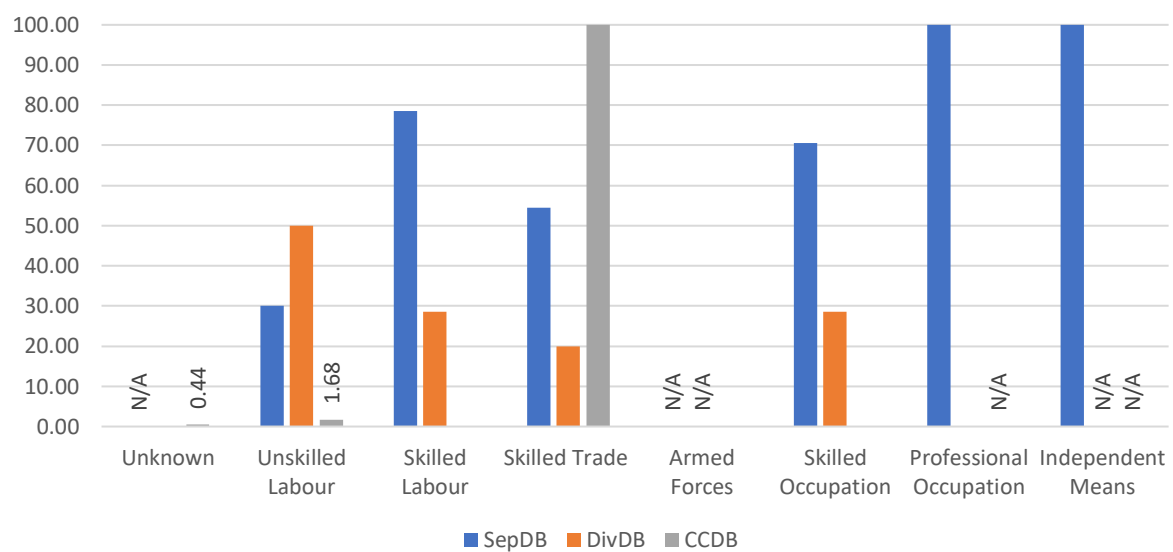


Figure 6.3 *Percentage of cases that reported behaviours from the category ‘verbal’, by husband’s occupation category*

6.2 Degrading Verbal Abuse

Verbal abuse could demean a victim in a number of ways, and victims themselves recognised this degradation at the time.² Most commonly, victims were insulted. In line with the general pattern of reporting for verbal abuse, the SepDB contained the highest rate of reporting, with 37.7 per cent of cases (46 cases) containing reports of insults. Likewise, the rate of reporting of insults dropped from 60 per cent in the 1860s to 13.33 per cent in the 1870s before stabilising at almost 3 in 10 cases between the 1880s and 1900s (Figure 6.4). Reporting was equally highest among couples from the professional occupation and skilled labour categories (both 42.86 per cent). Couples in the independent means, skilled occupations and skilled trade categories all reported insults in between 25-30 per cent of cases. Finally, unskilled labour category couples reported insults in just one in ten cases (Figure 6.5). In the DivDB, four cases contained an accusation of insult.

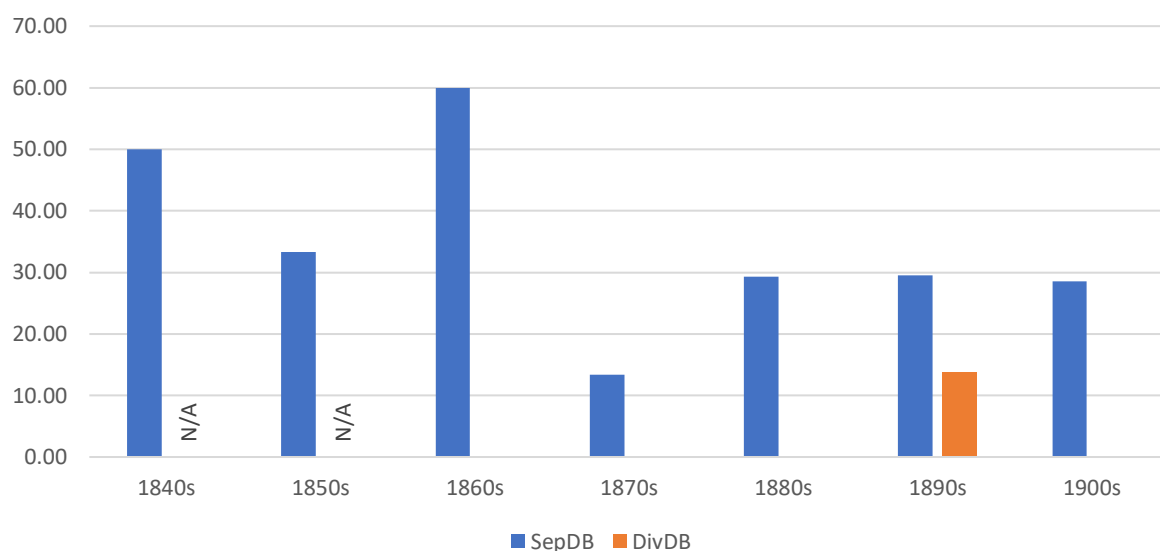


Figure 6.4 Percentage of cases that reported behaviour type ‘insult’, by decade

(NB: there were no CCDB cases that reported this behaviour type)

² See, for example, NRS, CS46/1899/8/37, Summons.

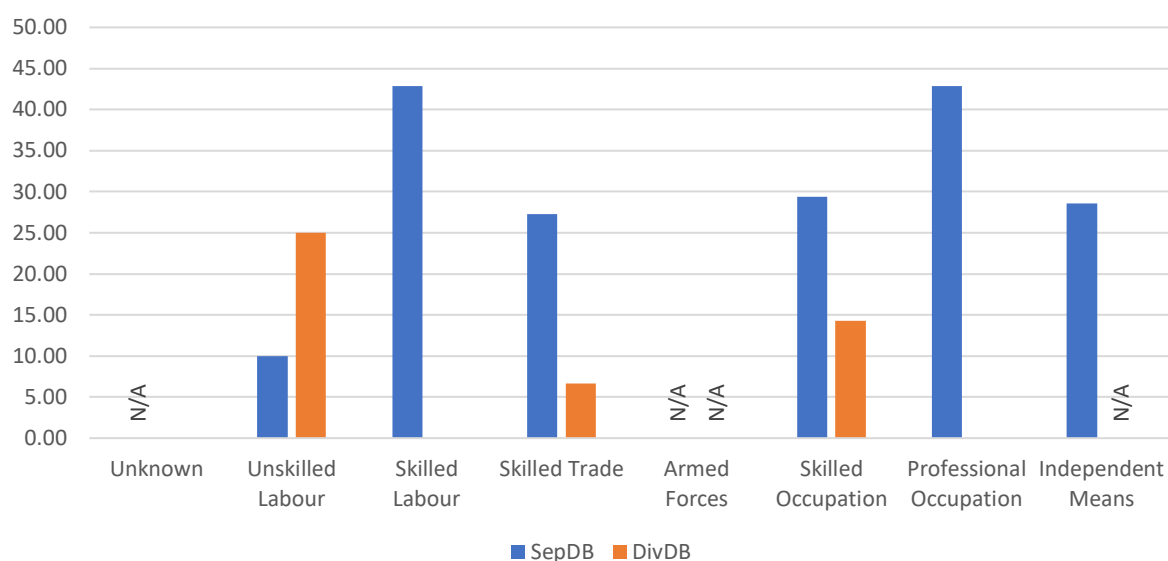


Figure 6.5 Percentage of cases that reported behaviour type ‘insult’, by husband’s occupation category

(NB: there were no CCDB cases that reported this behaviour type)

Victims were most likely to report that they had been insulted by their spouse as part of a broader accusation regarding their spouse’s general behaviour during the marriage (Table 6.1). All four divorce cases and 34 of the 43 separation cases included accusations that were made in a generalised format like that found in Margaret Cowan’s 1877 separation case. Her second condescendence began:

Within a fortnight after their marriage, the defender began to treat the pursuer with gross harshness and cruelty. He used foul and opprobrious language to her, called her foul names, and brought evil men about the house for the purpose of corrupting the pursuer. He stayed out sometimes for nights, and was usually out late at night.³

It was standard practice to include a sweeping statement, such as this one, early in the condescendence. Here, insults and other behaviours could be generically reported. Victims also reported specific incidents when their spouse had insulted them. Sara Louise Pollock reported that her husband, James Wilson, had insulted her repeatedly in late 1892 because she had refused to insure her life for £2000.⁴

³ National Records of Scotland, Edinburgh (hereafter, NRS), CS243/1144, Summons.

⁴ NRS, CS46/1898/5/30, Summons.

Table 6.1 Format of behaviour type ‘insult’

Format of Accusation	SepDB	DivDB
Generic	18	3
Specific	9	0
Both generic & specific	16	1

(NB: there were no CCDB cases that reported this behaviour type)

As well as being made in a generic or specific format, the context of an insult accusation could vary (Table 6.2). In 18 of the 43 separation cases, accusations of insult were made in the process of relaying a larger incident that involved physical abuse. Such as when, on 22 October 1864, Alexander MacQueen got drunk and began to strike his wife Mary Rigg. All the while he used “scurrilous epithets”.⁵ In 19 of the 43 separation cases, the accusation of insult was made in conjunction with non-physical abuse. This was the case in May 1886, when James Stevenson used insulting language towards his wife, Florence Gibbs, and during the same interaction, threatened to take their child away from her.⁶

Thirteen cases included accusations of insult where this was the sole form of unreasonable behaviour in the incident. On 4 June 1878, while attending the wedding of some friends, David Easton used insulting language towards his wife Ellen Wylie.⁷ Evidently insults were a form of unreasonable marital behaviour in their own right, but the behaviour was more likely to be part of a bigger incident. This combination of cruel behaviours will be more thoroughly discussed in Chapter Seven.

When a husband or wife accused their spouse of verbally insulting them, they were likely to be vague about the words that were used rather than quote the exact terms. In most separation cases and in half of the divorce cases, the generic accusation was bolstered by a negative adjective such as: dirty, foul, nasty, opprobrious, scurrilous, or wicked (Table 6.3). For the victims, exact descriptions of the insult were of little consequence. Whichever

⁵ NRS, CS46/1865/7/147, Summons.

⁶ NRS, CS243/6810, Summons.

⁷ NRS, CS46/1879/11/68, Summons.

“improper name” an abuser deployed, it functioned in the same way by degrading the victim.⁸ During her 1856 separation case, Jane Laven explained that her husband Daniel Kean would use “abusive epithets to detract from her character as a wife and mother”.⁹ In 1898, Jane Reid’s lawyers noted in her separation case against Alexander ‘Sandy’ Sproat that Sandy had frequently called Jane “offensive names” that “[implied] the utmost degradation of character”.¹⁰

Table 6.2 Context of behaviour type ‘insult’

Context of Accusation	SepDB	DivDB
Solely insult	13	2
Insults alongside Physical Abuse	18	0
Insults alongside Non-Physical Abuse	19	1
Context not discernible ¹	19	2

¹ This was the case in most generic accusations.

(NB: no cases in the CCDB reported this behaviour type; a single case could report multiple incidences of insult but only one insult context per case was included in the count, e.g. C001 might report four incidences of insult, in three the context was ‘solely insult’ and in one the context was ‘insult alongside physical abuse’, this would lead to a single case being added to the count for both of these categories)

Some cases did include the specific insulting term that had been used – for example, bitch, liar or, one occasion “old nurr of the devil” – but there was only one sub-genre that was reported with any regularity: names that implied a woman was a sex worker.¹¹ Such terms were not reported in the DivDB; however, 13 of the 43 separation cases involving insults (30.23 per cent of separation cases involving insult, 10.66 per cent of all separation cases) included at least one accusation of the husband describing his wife as a sex worker. In July 1864, as Alexander MacQueen physically assaulted his wife Mary Rigg, he also called her a “whore”.¹²

⁸ NRS, CS46/1896/3/57, Proofs.

⁹ NRS, CS228/1/9/77, Summons.

¹⁰ NRS, CS46/1899/8/37, Summons.

¹¹ NRS, CS46/1888/6/117, Summons.

¹² NRS, CS46/1865/7/147, Summons.

Insults relating to sex work were consistently present – between 6 and 20 per cent – in accusations made through-out the Victorian period, except for the 1840s when there were no accusations. In terms of class, the accusation was made in at least one case from every occupation category except unskilled labour, the least well-off category.

Table 6.3 Description of behaviour type ‘insult’

Description of Insult	SepDB	DivDB
Generic reference to an insult or name calling	42	4
<i>Accompanied with a negative adjective</i>	37	2
<i>Unaccompanied by a negative adjective</i>	12	2
Sex Work Related (e.g. whore, strumpet, prostitute, etc.)	13	0
Bitch	5	0
Brute (both sexes)	3	0
Liar	2	0
Dirty Beast (both sexes)	2	0
“An old nurr of the devil”	1	0
Blackguard	1	0
Damned pig	1	0
Dirty Hound	1	0
Old grey head	1	0
Ugly devil	1	0

(NB: there were no CCDB cases that reported this behaviour type; a single case could report multiple incidences of insult but only one description of insult per category, per case was included in the count)

Most husbands simply used a derogatory synonym for sex worker to imply that their wives were promiscuous, such as prostitute, street walker, strumpet, or whore. David MacDonald was more creative. During her second separation trial in 1888, Mary Hume told of an evening in December 1873 when her husband David had insulted her. He had first used the

term “street walker”, but then he called her a “Gartnavel kept-miss”.¹³ While both of David’s insults imply Mary was a sex worker, the latter insult was regionally specific. Gartnavel was the site of the Glasgow Royal Lunatic Asylum. Thus, David implied that Mary was paid to provide sexual services to the patients.

Unlike accusations of slander, which will be discussed below, there was nothing to suggest that these husbands believed their wives really were engaged in sex work. Instead, these insults were supposed to cause damage simply by associating the women with sex work and thus implying their promiscuity.¹⁴ Laura Gowing has shown that, in the early modern period, attacks that homed in on a woman’s sexual behaviour were “the most effective basis for assault”.¹⁵ Similarly, Elizabeth Foyster has shown that this language was not only insulting because it damaged a victim’s reputation through their association with immorality, but also because “both the prostitutes and the men who used such language ... were perceived to be from the lower sorts”.¹⁶ Insults that employed these tropes were therefore doubly damaging to a victim’s image. Such insults did not have to be heard by third parties to be unreasonable. Wives expected their husbands not to disrespect them in this way at all.

On two occasions when husbands called their wives sex workers, they included the children in the insult too. On 11 July 1900 John McCaffrey returned to his home in Belfast drunk. He called his wife Sarah Lynagh a “whore” and his sons, Patrick and John, “bastards”.¹⁷ John often referred to his wife in children in this manner: Sarah reported it happening several times during her 1901 separation case.¹⁸ When Daniel McCorkle insulted his children alongside his wife, the three children were already in their twenties. As well as being considerably older than the McCaffrey children had been, the McCorkle children were also female. Rather than questioning his daughters’ parentage, he insulted them by calling them “whores”.¹⁹

Given the imbalance in sexual standards between men and women in the nineteenth century, there was no insult that could be brought against husbands that was as equally damaging as implying a woman was involved in sex work. Of the five separation cases that

¹³ NRS, CS246/1506, Summons.

¹⁴ For a survey of sex work in Glasgow and Edinburgh in the late nineteenth and early twentieth centuries, see Louise Settle, ‘Policing the ‘social evil’: prostitution in Edinburgh and Glasgow, 1892-1939’ (Ph.D Thesis, Edinburgh, The University of Edinburgh, 2013).

¹⁵ Laura Gowing, “Gender and the Language of Insult in Early Modern London,” *History Workshop*, no. 35 (Spring 1993): 19.

¹⁶ Foyster, *Marital Violence*, 2005, 78.

¹⁷ NRS, CS243/5192, Summons.

¹⁸ NRS, CS243/5192, *passim*.

¹⁹ NRS, CS46/1874/3/89, Summons.

involved male victims of insult, just two cases included specific examples of the insulting terms. During his defences, 53-year-old joiner Hamilton Shedden reported that he had had to leave his wife, Mary Reid, in late February 1896 for his own physical safety. Hamilton went on to explain that for days after he left her, Mary would follow him in the mornings as he walked to work. During these interactions, she would call him “opprobrious” epithets such as “old grey-head”, and these ageist attacks would likely have been emasculating for Hamilton.²⁰ In the other explicit example of an insulting wife, Peter Williams complained during his defences that Margaret Downie called him “bad names such as dirty beast, dirty hound, and brute”.²¹ Peter’s defences to Margaret’s separation case Summons imply that he prided himself on being a respectable, hardworking man, husband, and father. Margaret’s words would have been cutting insults for Peter. The limited examples of men complaining of being insulted by their wives makes a comprehensive comparison of insults between the sexes impossible. However, these brief glimpses reveal a telling pattern. When a husband insulted his wife, the possibility that the insult was sexual meant her moral character could be under threat. Whereas, when a husband was insulted by his wife, his pride was the target.

Some degrading verbal abuse was longer than a quick, sharp, insult, and this behaviour type was logged as degrading language. Reports of degrading language were more infrequent than insults: 8.2 per cent of separation cases (10 cases) and 6 per cent of divorce cases (3 cases) included accusations of degrading language. This lengthier form of verbal abuse worked in the same way as insults because it belittled the victim. Elizabeth Russell explained that her husband Duncan Campbell Paterson would regularly tell her that everything she did in the house was wrong. This relentless humiliation “reduced [Elizabeth] to tears”.²² Degrading language was a more sustained retort than an insult. While the degradation in an insult was blunt, it could be more subtly implied in degrading language. On Christmas Day 1897, John Bradley physically assaulted his pregnant wife Ellen Haughian and put her out of their house at 203 ½ Great Eastern Road, Glasgow. As he did so, John told Ellen “that she would not be allowed to lie in his first wife’s bed which he occupied”.²³ This remark implied that John considered Ellen inferior to his first wife.

One possible explanation for the low level of reporting is that degrading language was subsumed within condescendence regarding insults more generally. The exact wording that the

²⁰ NRS, CS46/1896/17/75, Defences.

²¹ NRS, CS46/1881/3/14, Proofs.

²² NRS, CS230/R/10/3, Summons.

²³ NRS, CS46/1899/10/16, Summons.

abuser had used during an incident of degrading language was recalled in eight of the ten separation cases, and in all three of the divorce cases that contained examples of degrading language. In the two separation cases where the exact wording could not be recalled, the degrading language was reported to have taken place as part of a larger incident that also involved physical violence. When a victim reported their spouse's unreasonable behaviour to a lawyer, it was then constructed into a Summons. If lawyers only included incidents of degrading language when the wording could be recalled, or where the behaviour had occurred within a larger assault, then examples of this behaviour may have been included within the more generalised accusations of insulting language.

A small number of victims complained about slanderous charges their spouses made against them. This behaviour was only reported in seven separation cases (5.74 per cent of all separation cases). The majority of those who complained were female, with just one case involving a male victim. In five of the seven cases (including the case of a male victim), the slanderous accusations related to the victim's sexual fidelity. Ellen Wylie felt "very great grief and pain" when her husband, accountant Archibald Easton, "falsely and cruelly" accused her "of leading an immoral and unchaste life during her widowhood".²⁴ In the four other cases the slanderous accusations related to infidelity during the marriage, rather than sexual impropriety before the marriage. Shortly after their marriage in 1869, Duncan Dewar began to "groundlessly and cruelly" accuse his wife Janet McFarlane of adultery.²⁵ Sandy Sproat assaulted his pregnant wife Jane Reid at their home on the evening of 18 October 1894. As well as kicking and beating her, Sandy threatened her life and claimed that he was not the father of the child she was carrying. Jane went into labour that evening and gave birth to Barbara Smellie Sproat at 07:30 on 20 October 1894. On 8 November 1894 Barbara passed away, having suffered from acute bronchitis for three days. When recounting this event in the condescendence, the premature labour was blamed solely on a combination of unreasonable behaviours, including the slanderous accusation that she had been unfaithful:

The pursuer in her then delicate state of health was so upset by the insult and the aforesaid threat, and by the defender's violent conduct, that she was taken suddenly unwell the same night and was prematurely delivered of a child, which died a short time afterwards.²⁶

²⁴ NRS, CS46/1879/11/68, Summons.

²⁵ NRS, CS243/1797, Summons.

²⁶ NRS, CS46/1899/8/32, Summons.

The one example of slander that involved a male victim differed from that experienced by female victims. Rather than addressing Thomas Mitchell directly with her slanderous accusations, Jane Young publicised her claims. Thomas, an agent and lecturer of the Protestant Layman's Association, claimed that his wife would shout out whenever she saw him on the streets of Glasgow: "There is Thomas Mitchell of the Glasgow Protestant Layman's Association, where are his whores?". He also claimed that Jane put slanderous advertisements in the newspapers to report his alleged infidelity to as wide an audience as possible.²⁷ While not reported in great numbers, accusations of slander are a reminder of how vulnerable Victorians felt to slurs against their sexual propriety.

In six separation cases (4.92 per cent of all separation cases), wives reported that their husbands refused to talk to them. This behaviour was relatively rare, likely because it was not possible for all husbands to completely stop communicating with their wife. The rate of reporting between occupation categories shows that, when reported, this behaviour was more likely to be reported by elites (Figure 6.6). Elizabeth Russell reported that "since about six weeks after the date of the celebration of their marriage, the defender ceased to hold any intercourse with the pursuer". In giving details of this silent treatment, Elizabeth explained that "although [her husband] resided in the same house with her, he did not speak to or with her, and withdrew himself entirely from her bed, and never entered her apartments".²⁸ Duncan and Elizabeth were in the independent means category and their home, Lochgair House, was a Georgian mansion. Having surplus space would have made it easier for Duncan to avoid conversing with his wife for the remainder of their marriage. Examples from the skilled occupation category show that husbands without the luxury of space could also cease to communicate with their wives by using a messenger.

²⁷ NRS, CS46/1888/6/117, Proofs.

²⁸ NRS, SC230/R/10/3, Revised Minute of Debate.



Figure 6.6 Percentage of cases that reported behaviour type ‘silent treatment’, by husband’s occupation category

(NB: there were no DivDB or CCDB cases that reported this behaviour type)

For William Steel that person was the household servant Euphemia Proctor, and for Thomas McNeill it was the couple’s daughter Mary.²⁹ The only example of silent treatment that was not conducted over a long period of time came from the skilled trade category. Butcher Thomas Naismith had physically and verbally assaulted his wife Jane Kean in July 1878. In her Summons in 1879, Jane explained that for the fortnight following this incident, Thomas had refused to speak to her.³⁰ As well as being the only example of short-term silent treatment, this was the only working-class example. Silent treatment – like replacement of the wife as household manager – required the means to overcome the need to speak that arose on a day-to-day basis. While this was a rare form of unreasonable behaviour, these complaints show that communication was important in marriage. Even though there were other unreasonable behaviours present in the marriage, wives still expected to be able to converse with their husbands.

6.3 Verbal Aggression

²⁹ NRS, CS243/6557, Summons; NRS, CS1897/12/52, Summons.

³⁰ NRS, CS46/1879/5/48, Summons.

In addition to verbal behaviours that were considered unreasonable by victims because they were demeaning, there was also an unreasonable verbal behaviour that was considered cruel because of its aggressive nature. Categorised as ‘verbal aggression’, this behaviour was generically referred to with phrases such as “she frequently used abusive language”, “he regularly assaulted the pursuer with his tongue”, or “he used abusive and filthy language towards pursuer and two children”.³¹ It was not possible to record examples of swearing as a specific but separate form of verbal aggression. While some cases explicitly used the term “swear”, many used vague language that could not be categorised as swearing with certainty. The context of the complaints that involved profanity make it clear that the victims were not upset that their spouses were swearing in general conversation. Rather, victims reported swearing because it was aggressive and frightening behaviour. Thus, swearing as a behaviour is more appropriately considered as part of the broader verbal aggression behaviour type. In this section it will become clear that the full extent of verbal aggression has been obscured in divorce records because of a legal practice of focusing on the *most* dangerous incidents and ignoring concurrent behaviours for the sake of brevity.

Verbal aggression was reported across all three databases, but as Figure 6.7 shows, there was a significant disparity in the rate of reporting between the databases. While verbal aggression was reported in around half of separation cases, it was only reported in around a fifth of divorce cases, and just 0.62 per cent of criminal court cases. In the CCDB, the incredibly low level of reporting can be attributed to the medium: the limited space in newspapers would have prevented all but essential details of the crimes from being reported. Understanding why verbal aggression was not reported more often in divorce cases is more complex. First, the broader context of reports of verbal aggression must be understood. Because an incident could involve several behaviour types, it was possible for verbal aggression to be reported alongside a number of other behaviours. Table 6.4 shows that in both the SepDB and DivDB, around one in ten incidences of verbal aggression were reported alongside other cruel behaviours that were not physical, or physically threatening, in nature.³² Mary Salmond complained in 1882 that whenever her husband, wholesale warehouse man John Gibson, was home he “frequently used coarse language to the Pursuer, and boasted of his adulterous intercourse with various

³¹ NRS, CS243/7638, Defences; NRS, CS46/1896/10/75, Summons; NRS, CS243/5192, Summons.

³² The criminal court data is based on four cases and so the anomaly in context cannot be compelling evidence at this time.

women”.³³ In addition to verbal aggression, John admitted adultery too, which was a form of emotional abuse.

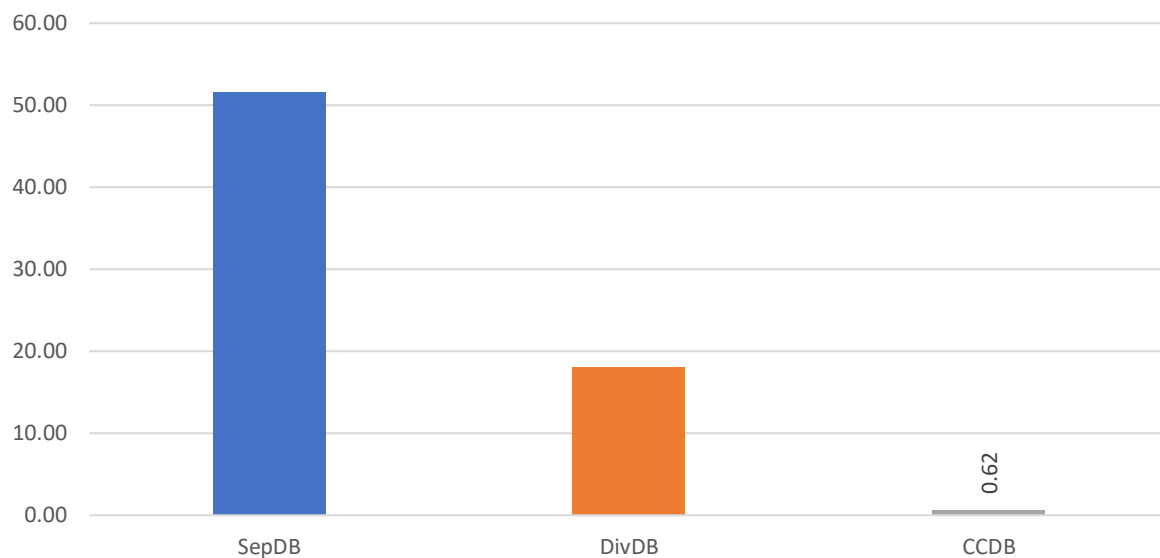


Figure 6.7 Percentage of cases that reported behaviour type ‘verbal aggression’

Table 6.4 Context of behaviour type ‘verbal aggression’

Context of Accusation	SepDB	DivDB	CCDB
Alone or Context not discernible	19	7	1
Alongside Other Cruelty	44	2	3
Alongside Physical Cruelty	35	1	2

In the remaining two categories displayed in Table 6.4 the results from the two databases are almost the inverse of each other. In separation cases verbal aggression was most likely to reported as part of a physical attack. However, when verbal aggression was reported in divorce cases it was more often a standalone accusation. This distinct pattern of reporting is perhaps explained by the fact that the inclusion of reports of cruelty in divorce cases was

³³ NRS, CS243/2656, Summons.

already legally surplus to requirement. Perhaps when lawyers in divorce cases reported cruelty, they chose to focus only on the details of the incidents that were most threatening. This would result in verbal aggression in its own right being reported but would obscure from the record verbal aggression that so often accompanied physical violence, as evident from the separation cases. Because the crux of a separation case was usually marital cruelty, the descriptions of incidents in those cases were more comprehensive.

The criteria for divorce in Scotland was adultery or desertion for upwards of four years. Despite this, 50.63 per cent of the 320 divorce cases brought by couples from the Greater Glasgow area during the sampled years included references to unreasonable marital behaviours beyond those that were legally required if the pursuer was to be granted a divorce. Evidence of additional unreasonable behaviours, while legally redundant, would have bolstered the poor image the pursuer's legal team painted of the defender. However, as it was not legally necessary to report cruelty during a divorce, it follows that pursuers in divorce cases may have described incidents in less detail than those in separation cases. Thus, the lower level of reporting of verbal aggression in divorce compared to separation cases can be explained by the fact that pursuers and lawyers in divorce cases believed that physical violence alone was enough evidence of the defender's bad character. In divorce cases, verbal aggression that occurred alongside physical abuse was surplus to requirement. Without the significant number of examples of verbal aggression that occurred alongside physical abuse, the rate of reporting in the DivDB was subsequently considerably lower than that of the SepDB.

Diana Paton's work on violence inflicted upon enslaved people in early nineteenth-century Jamaica gives further meaning to the overlap between verbal aggression and behaviours from the physical abuse category. While the racial and economic contexts of slavery and marriage are worlds apart, in the nineteenth century they were both examples of relationships with an unequal balance of power. Paton has argued that the association of the verbal aggression with experiences of physical violence heightened the power of the verbal aggression. For Paton, verbal aggression was damaging because of "the threat of violence that always implicitly accompanied it".³⁴ In 1894, Margaret Harvie testified that her husband Peter Fergus "used to go about excitedly and frighten us swearing and saying nasty things".³⁵ According to Paton's theory, Margaret's memories of previous physical attacks could have been triggered by Peter's aggressive verbal behaviour. This in turn caused her to be "frightened"

³⁴ Paton, "Gender, Language, Violence and Slavery," 2006, 246.

³⁵ NRS, CS46/1894/8/24, Proofs.

once more, despite there being no physical assaults on those occasions. These findings are confirmed in the 1858 ruling of Cresswell in the London Divorce Court: that previously condoned violence could be revived by later verbal threats of violence.³⁶

Tracking the change in the rate of reporting of verbal aggression over time has given varied results. In the SepDB, the small number of cases raised in the 1850s and 1860s caused some variation but on the whole reporting was usually between 40 and 60 per cent (Figure 6.8). In the DivDB verbal aggression was only present in cases brought in the 1870s at 14.29 per cent (one case), and 1890s at 17.24 per cent (five cases). Similarly, the distribution of reporting across occupation categories in the SepDB contrasted with that of the DivDB (Figure 6.9). While in the DivDB verbal aggression was most likely to be reported by the least well off, this trend was somewhat reversed in the SepDB, though a high rate of reporting among skilled labour cases disrupts this pattern.

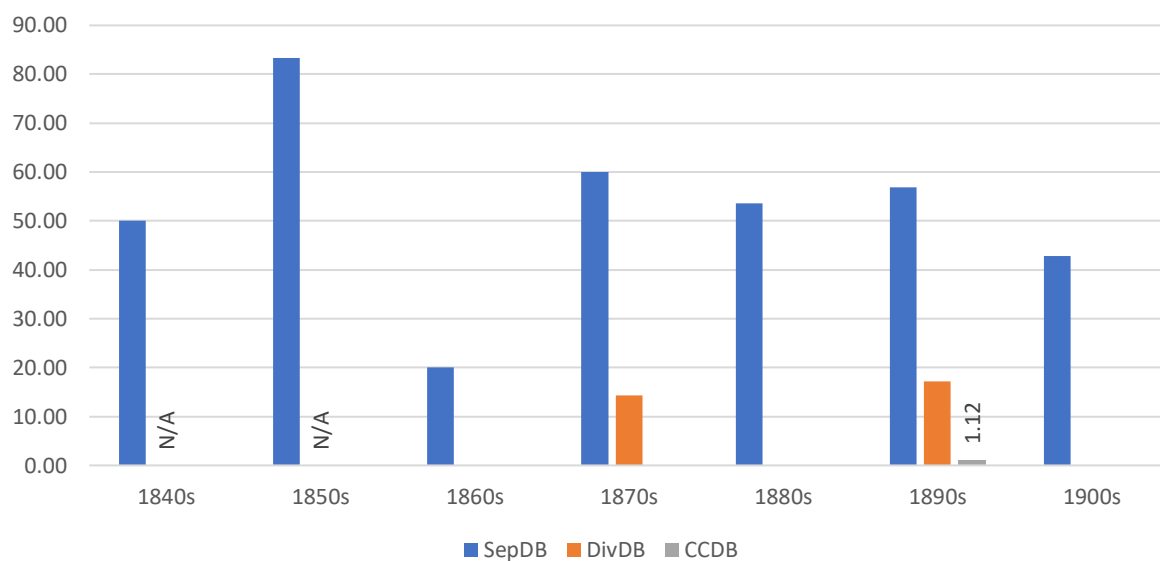


Figure 6.8 Percentage of cases that reported behaviour type ‘verbal aggression’, by decade

³⁶ Hammerton, *Cruelty and Companionship*, 126.



Figure 6.9 Percentage of cases that reported behaviour type ‘verbal aggression’, by husband’s occupation category

6.4 Conclusion

Verbal forms of unreasonable behaviour – degrading and aggressive – both existed in their own right and accompanied other forms of marital cruelty. Separation cases were most likely to include accusations of verbal cruelty. Divorce cases reported less regularly, but still around 25 per cent of the time. Verbal cruelty was almost non-existent among CCDB cases though. The lower levels of reporting in the DivDB and CCDB were a consequence of the medium.

Degrading verbal cruelty, in its many forms, worked because it belittled the victim. Insults, the largest form of degrading verbal cruelty, were often reported as part of broad, sweeping accusations that referred to the abuser’s unreasonable behaviours in a generic manner, but sometimes specific insults were described. These specific insults could be discrete events, or issued alongside other forms of cruelty. The language used to insult spouses was diverse. The only individual category of insult reported with regularity were insults that implied the victim was a sex worker. The seriousness of such insults could be compounded by implicating the children of the marriage as well. More sustained derogatory tirades were categorised as degrading language rather than insult. These were less regularly reported, but still featured in around 1 in 10 separation cases. Slander and silent treatment were rarer still.

Verbal cruelty, of course, could also be aggressive in nature and these behaviours were recorded in the databases as verbal aggression. The close association between verbal and physical abuse meant that even when verbal aggression was conducted independently of physical assault, it carried the implicit threat of physical violence, which compounded the cruelty. Like verbal cruelty overall, the rates of reporting between the databases differed significantly for verbal aggression. Where it was reported – in the SepDB and DivDB – the pattern of reporting also varied. In separation cases verbal aggression was most likely to be reported alongside physical forms of cruelty, but in divorce cases it was most likely to be the only form of cruelty reported in the incident. This divergent reporting pattern, like the low rate of CCDB reporting, was likely due to the medium. Divorces were granted upon proof of adultery or desertion. In Scotland, there was no legal benefit to pursuers who also included evidence of their spouse's marital cruelty. It appears that in divorce cases, given that proving a pattern of abuse was not necessary, only the most serious behaviours were reported. This is not to say that verbal cruelty was not considered serious – certainly, when it was the only behaviour in an incident it was reported – only that it appears to have been considered less significant in certain circumstances, most notably when directly compared to physical violence.

Chapter 7 What a Cruel Marriage Looked Like

The previous chapters in Part II have demonstrated the broad range of behaviours that were present in cruel marriages in Victorian Glasgow. Beyond physical cruelty, a perpetrator could inflict emotional, psychological, verbal and economic cruelty. This chapter will now consider how victims experienced these behaviours across the duration of their married life. In short, what did a cruel marriage look like?

Throughout a marriage, spouses amassed a variety of experiences that, in some instances, culminated in their decision to seek a separation or divorce. In turn, this produced a lengthy archival file that remains for historians to trace. To start investigating the layered experiences of multiple unreasonable behaviours in marriage, this chapter will open with a case study. No one single example can be taken as entirely representative of broader patterns. Still, this study gives a good introduction to the possible range of unreasonable behaviours present in a marriage and the relationship between them, which helps us to better understand marital experience and breakdown in this period.

Isabella Barr and John Bell appeared before the Court of Session (CoS) in 1883 when Isabella brought a separation case. Using the surviving consistorial case and supplementary evidence from birth, death and marriage certificates, as well as census data and newspaper reports, this chapter will begin by telling the story of Isabella and John's marriage. In the second part of this chapter, the key points will be discussed. Working chronologically through the marriage, the amicable period prior to the deterioration will be addressed first, as well as triggers for the start of cruelty in marriage. Then this chapter will consider how different forms of cruelty worked together and how pursuers seeking a separation had to present a 'system of maltreatment' to be successful in their case. Finally, themes around the issue of leaving will be considered. What did the cycle of leaving and returning look like? Given the richness of the cases, the final reported incident has been identified in the majority of cases. This novel data will be used to explore common themes around the final straw in a cruel marriage and establish whether the decision to bring a consistorial case was usually taken straight away.

The preceding chapters have focused on separate behaviour categories. Given the dearth of attention that non-physical marital cruelty has received in the existing historiography, this was necessary in order to demonstrate the range and importance of other forms of abuse.

None of these behaviours occurred in a vacuum. This discussion will draw together each of the strands covered in earlier chapters to present the full picture of a cruel marriage.

Although this thesis is based on the data from three major primary sources – separation cases, divorces, and newspaper reports of minor criminal court cases – this chapter will focus solely on the separation cases. Prepared mostly with the intention of proving marital cruelty, these are the richest of the three sources.¹ While the divorce database and the criminal court database are both focused on the cruel behaviours and responses to cruelty, the separations database (hereafter, SepDB) tracks a more comprehensive range of the other aspects within a cruel marriage.

7.1 Case Study

Isabella Barr was born in 1838 and died in 1912. For much of her life she lived in the harbour town of Greenock, situated on the south bank of the River Clyde where the water meets the Firth of Clyde. She was the fourth of eight children born to Isabella McLeish and John Barr, and as a child she lived in a number of places on the south-western edge of the town. Surrounded by green open spaces – rather than the cramped, dirty conditions of the town centre brought about by the harbour and the associated industries – she had a relatively good upbringing. Her father earned a decent wage as a master gardener, sometimes employing a few other men. By 1869 the Barr family were living on Brachelston Street. It was there, on 13 July 1869, that Isabella Barr was married to Captain John Bell. Their marriage was conducted by the Reverend William Reid Thompson, the minister at the Sir Michael Street United Presbyterian Church in Greenock. Nothing is known about the couple's courtship, and their marriage certificate provides few clues. Both of John's parents – William Bell, a grocer, and Mary Muir – were deceased by the time of his marriage. Thus, it seems likely that both parties entered the marriage of their own free will. Isabella was 29 years old, and John was 34. John's occupation was recorded as "Seaman Master (Merchant Services)", and the *Greenock Advertiser* reported that he was Captain of a barque named 'Thistle' (one of the most common types of small sailing vessel).² This kind of work was inherently irregular. John would often return home only to leave again days later, and he would only earn money when away from

¹ 17 separation cases included accusations of adultery in the pleas in law, but in 14 cases there was also a plea related to cruelty and so only 3 separation cases were brought solely on the grounds of adultery rather than marital cruelty.

² ScotlandsPeople, Marriage Certificate for Isabella Barr and John Bell, 13 July 1869, *Statutory Registers of Marriage* 564/3 190 (Accessed: 10 July 2020); *Greenock Advertiser*, 15th July 1869.

home. Despite the innocuous start to their relationship, married life was to become so unbearable for Isabella that she sought a legal separation in 1883.

Very little is known about the first six years of their marriage. From statutory birth records, we have the exact dates of their children's births. In February 1872 Isabella gave birth to twins: Mary and John. Isabel was born in December 1873, while John was master of the 'Glenfruin'.³ During Isabella's third pregnancy – which resulted in the birth of Elizabeth in October 1875 – John "began to misbehave".⁴ Isabella was vague about John's cruelty at this time. She reported that initially, he only behaved unreasonably when drunk. But she explained that he was often drunk when he was home from his voyages, and added that he was "getting to be very often at home". In the end, at some point in 1875, Isabella had to "run from the house", and she took her children with her.⁵ On John's promise of better behaviour, Isabella agreed to return. John broke those promises very quickly, but Isabella only described in detail the cruelty he inflicted from 1880 onwards. In the intervening years, Isabella gave birth to a second set of twins, Ivie and William in December 1877. The final child of the marriage, Peter, was born in June 1882 and was just nine months old at the time Isabella separated from John for good.

After remarking on the ill-treatment she suffered at John's hands in 1875, Isabella next addressed John's economic cruelty. John's alcoholism "deprived him of valuable employment" and from Isabella's upper-working/lower-middle-class upbringing she was now reduced to poverty.⁶ In response, Isabella began to support herself and her family through her own work. She established a business, "Bell & Co., fruiterers", which was listed in the Greenock Post Office Directory from 1880 onwards. Isabella's independence irked John. In August 1880 he demanded that she include his name in the business and the bank book. When she refused, "he threatened [her] exceedingly with violence" and "used very abusive language".⁷

No incidents were reported again until February 1881. Isabella had been at work in the fruit shop when the Bells' servant – who had been with the family for more than a year – brought her a note to say she was resigning. Although Isabella inquired, the unnamed servant "distinctly declined" to give any reason for leaving.⁸ Isabella pressed on and explicitly asked whether her husband was the cause. The servant refused to say, but during her testimony

³ *Greenock Telegraph*, 1st December 1873.

⁴ National Records of Scotland, Edinburgh (hereafter, NRS), CS243/560, Proofs.

⁵ NRS, CS243/560, Summons.

⁶ NRS, CS243/560, Summons; NRS, CS243/560, Proofs.

⁷ NRS, CS243/560, Summons.

⁸ NRS, CS243/560, Proofs.

Isabella heavily implied that there was no other reason the young woman would have left the Bells' employment: "there was nobody in my house but my husband and at the time he was drinking very much".⁹ Isabella recognised that John was incapable of change and on the same evening that she was abandoned by the servant, she went home and begged John to leave her and the children. To her, his presence brought them nothing but disgrace. John reacted violently. He dragged Isabella upstairs to their bedroom, pushed her into an armchair and shook her violently by the ears. He continued to push her about forcefully for an hour, without stopping. At the same time, he used "disgusting language" and reflected on her character "very improperly".¹⁰

Again in August 1881, John's resentment of Isabella's economic success and independence came to the fore. John, who was home from sea and had been drinking, was sleeping on the sofa in the dining room. Isabella was at the dining room table doing the accounts when John deliberately disturbed the table causing the papers to fly everywhere. He then lifted the ledger, a passbook, and a little bag that Isabella kept her money in (containing around £16 in paper notes) and threw them all into the fire. Isabella was able to save the money, but that was not the end of the ordeal. John then pushed Isabella over to the sofa and kept her down there. He had seized her arms so tightly that there were blue marks on her skin for a fortnight afterwards. The violence resumed in the morning. Isabella got up to go to work around 9 am, but John locked her in the dining room. First, he smashed all the breakfast dishes, one by one. He then rang the bell for their servant, Helen Jack, and ordered her to clear the mess. John then turned back to Isabella and began threatening her – shaking his fists in her face and threatening to cut her throat. Terrified, Helen ran from the room. When Isabella was finally able to leave the dining room, John followed her to the bedroom, pushed her against the bed and made a movement to cut her throat. Luckily, she got away.

The next incident occurred in October 1881, when John was again home from sea. During her testimony, Isabella noted that John was back for more than eight months in the year 1881 – highlighting his repeated failure to provide for the family. It was around one or two o'clock in the morning when Isabella opened the door to her incredibly drunken husband. John had left for Glasgow, following up on a promise of work shortly before, but evidently he had not secured it. As well as being drunk, his face was a mess, and Isabella assumed he had been fighting. Isabella went up to the bedroom, terrified, but he followed her and put his pocket-

⁹ NRS, CS243/560, Proofs.

¹⁰ NRS, CS243/560, Proofs.

knife to her cheek, threatening to stab her. Upon questioning, Isabella reported that the knife was most certainly open and that she felt the blade against her face. Without explanation, again, the violence ended, and John went to bed, where he stayed for some days afterwards.

Isabella also reported that John came home from sea about the time of their seventh child's birth – June 1882. On the day Peter was born, he was drunk. He came home again in August that year, out of employment. Around 7 pm that evening, Isabella was preparing his clothes for him to return to work, but he had no position in which to return. When Isabella criticised him for not finding work, he “jumped up in a rage and abused [her]”. He went out that same evening around 10 pm and returned back later “in a dreadful state”. Isabella testified that he was “very outrageous that night and broke all the bedroom ware and smashed the furniture about”. She added that their new servant, Mary MacDougal, and the children were terrified of John's behaviour that evening. Isabella begged John to quieten down for the sake of their family, but he only threatened to hit her instead. The violence continued later that evening in the bedroom. John's threats of violence were extended to the new-born when he threatened to “dash the baby's brains out” by throwing him from the first story bedroom window. The following September, Peter was suffering from bronchitis. John turned off the home's gas supply at the meter and refused to turn it on again. Isabella made to leave the house to get the doctor, but John locked the door to prevent her. He allegedly said the baby could go to hell.

Subsequently, around midnight on a Saturday night in February 1883, John arrived home drunk. He had been on a voyage to Bilbao, Spain. Isabella reported that previous patterns of abuse were repeated: he smashed the furniture for hours while being “exceedingly violent” towards her. He eventually quietened down and went to sleep on the sofa in the dining room, leaving the gas burning all night. He left the following Monday to see about work in Glasgow, but returned again two days later, again drunk, he behaved “unkindly”. On Saturday 4 March he returned to Greenock again, earlier in the evening than was usual and sober. His behaviour nevertheless remained unacceptable, though Isabella gave no specific details other than to say that “during the night he was very violent to [her] and he left the bedroom and lay in the dining room”. The following morning he was still lying in the dining room when the parlour was laid for breakfast. Isabella asked him three times to join the family for the meal, and three times he refused. “He seemed thoroughly enraged at me” she reported. When he rang the bell for Elizabeth Ross – another new servant – to bring him food, Isabella tried again to induce him to take breakfast with the family by sending some of the children to ask him. Still he would not come. Later that morning, the children went to church, and Isabella was left at home with the

servant Elizabeth, the baby Peter, and the ill-tempered John. John was “stalking about the house perfectly enraged”. He went into the nursery and drank the whisky Isabella kept in there. Isabella saw him pour it into a glass and drink it. He had looked “frightfully ferocious”, and she was terrified. When John returned to the dining room, Isabella went to Elizabeth for help. Elizabeth dressed Isabella and got her quietly out of the door. Taking Peter with her, Isabella left again, as she had done eight years previously, and went to her father’s house.

Two months later, in May 1883, Isabella raised a separation case against her husband of 14 years, Captain John Bell. As was standard practice, the final condescendence focused on the issue of child custody and aliment. In summary, John’s alcoholism and lack of affection for his children were reiterated. Further, the point was made that when he was not drinking, John was working at sea. In short, Isabella made it clear that the only viable option was to give her custody of all seven children.

Lord Fraser – the Lord Ordinary who heard the case – agreed. Uncontested by John, the case proceeded very quickly. It was recorded in the Interlocutor’s sheets that on 12 May 1883 Lord Fraser ordered the proofs to be taken the following Saturday. Correspondingly, the entry on 19 May 1883 read:

The Lord Ordinary having today taken the proof adduced by the Pursuer, and considered the Summons with the proof and productions, Finds that the Defender, John Bell, has been guilty of grossly abusing and maltreating the Pursuer, Isabella Barr or Bell, his wife: Therefore finds that the Pursuer has full liberty and freedom to live separate from the Defender her husband; Ordains the Defender to separate himself from the Pursuer a mensa et thoro in all time coming: Finds the Pursuer entitled to the custody and keeping of Mary Hair Bell, John Bell, Isabel McLeish Bell, Elizabeth MacKenzie Bell, Ivie Hair Bell, William Bell, and Peter Barr Bell, all the pupil children of the marriage of the Pursuer and Defender in the meantime and till further orders; and Ordains the Defender to surrender and deliver said children to the custody and keeping of the Pursuer accordingly: Ordains the Defender to make payment to the Pursuer of the Sum of eighty pounds yearly for the aliment and education of said children so long as they shall remain in the custody and keeping of the Pursuer

A month later the auditor’s report was completed, and the final entry in the Interlocutor’s sheets was made. John was ordered to pay Isabella’s court expenses: £38 15s 5d. Isabella’s is just one of the 122 separation cases included in this research. One case cannot be representative of the whole, but a case study is one of the best ways to observe the fuller picture of how a cruel

marriage worked in practice. We will now examine the breakdown of Isabella and John's marriage in the broader context of what we know about other cruel relationships.

7.2 Amicable Beginnings and Triggers for Cruel Behaviour

Isabella and John were married for fourteen years before details of their marriage were laid out in a separation case in the CoS. Not all fourteen years of the marriage had been cruel though. Cruelty was alleged to have begun in 1875 – six years after the couple had married. Furthermore, the only detailed incidents of cruelty that were reported during the separation case came from the final three years of the marriage. Although there was reportedly significant cruelty earlier – enough to cause Isabella to leave John temporarily in 1875 – this is only referenced, and no evidence was provided. Thus, for some years, Isabella and John lived amicably before their relationship deteriorated. Isabella was not alone in reporting a period of harmony at the start of her marriage. As Table 7.1 shows, in almost half of all separation cases, spouses identified the point when unreasonable behaviour began. Around one in ten couples – like Isabella and John – were married for between two and nine years before a spouse became cruel. Almost the same number of couples reported that abuse began within a year. However, in the cases where evidence is available, it was most common that there was no amicable period at all, and cruelty began straight after the couple were married.

Table 7.1 Length of Reported 'Amicable Period' in Separation Cases

Length of Amicable Period	Number of Separation Cases	Percentage of Separation Cases
No Amicable Period	21	17.21
1 Year or Less	15	12.3
2 – 9 Years	12	9.84
10 – 20 Years	5	4.1
Amicable Period Not Mentioned	69	56.56
Total	122	100

Most often, then, there was no amicable period, or it only lasted a year or less. This was Catherine Caldwell's experience. In 1901 she raised a separation case against her husband James Burns, an engineer. In the condescendence it was reported that "from within two months of the marriage the defender had commenced a course of quarrelling and violent language of the worst kind towards the pursuer".¹¹ At the other end of the scale, Anne Collins' husband Charles McElhaw only began to behave unreasonably in the thirteenth year of their marriage.¹² Thus a cruel marriage was not always cruel. For most victims there was a period of harmony before the relationship deteriorated. Those pursuers who referenced an amicable period did so as a way to explain the history of the marriage. The contrast between this earlier amicable period and the later cruelty was never explicitly commented on, but it was likely a complex emotional process.

If cruelty was not a constant factor in all marriages, it follows that certain things were triggers for cruelty in marriage. For Anne Collins, like Isabella Barr, the initial spark for marital cruelty was alcoholism.¹³ In her own testimony and the Summons, alcoholism was woven into Isabella's recollection of the early cruelty in her marriage. Based on his study of nineteenth-century Preston police court trials for wife-assault, A. J. Hammerton has argued, "drunkenness and wife-beating were, undoubtedly, common partners, but the cause and effect relationship between the two was far from simple".¹⁴ This study of consistorial cases provides a unique insight into the connections between alcoholism and marital cruelty in the Scottish context because it has been possible to observe the effects of alcoholism in marriage over a number of years, rather than glimpsing only a snapshot as you do in criminal court cases. As Isabella described alcoholism as a catalyst for John's cruelty, so did 34.43 per cent of separation cases.

Elizabeth Foyster has argued that cruelty "frequently began in pregnancy".¹⁵ Although this was technically true in the Barr *ag. Bell* case, evidence of pregnancy as a stimulus for cruelty has been scarce in the Glaswegian experience. Importantly, while the connection between the start of John's cruelty – primarily in the form of alcoholism – and Isabella's third pregnancy is observable to historians, it is not one that Isabella herself made. In the Summons it was stated that "In Eighteen hundred and seventy-five [John] began to abuse the pursuer and his conduct then became so violent that she was obliged to flee from his house for safety". Likewise, Isabella testified "[John] began to misbehave about the year 1875". It is only by

¹¹ NRS, CS228/B/21/15, Summons.

¹² NRS, CS46/1896/12/54, Summons.

¹³ NRS, CS46/1896/12/54, Summons.

¹⁴ Hammerton, *Cruelty and Companionship*, 46.

¹⁵ Foyster, *Marital Violence*, 2005, 167.

identifying the birth certificates of the children of the marriage that it is possible to make the link between Isabella's pregnancy and the start of cruelty in the Bell marriage. Elizabeth Mackenzie Bell was born on 26 October 1875, and so Isabella would have been pregnant for the majority of 1875 – the same year that Isabella linked to the start of John's cruelty.

None of the victims in the SepDB cases made an explicit link between a wife's pregnancy and the start of cruelty. An overlap between the wife's pregnancy and the earliest cited incident can be observed in a further two separation cases: Margaret Cowan's 1877 suit and Jane McDougall's 1881 case. Margaret was married to her husband John Currie, in November 1866. Her Summons opened with the accusation that John had been cruel in various ways "more or less during their whole marriage". The first dated incident had been a physical assault at the beginning of April 1867 that resulted in a miscarriage.¹⁶ In Jane McDougall's case, the first dated incident occurred four days after the birth of the couple's first child. Having married widower Duncan McDougall in May 1877, Jane gave birth to their first child on 16 February 1878. In the Summons the first dated incident occurred on 20 February 1878 when Jane alleged that Duncan physically assaulted her while she was still lying-in. In these examples, the overlap between the start of cruelty and pregnancy is observable because the cruelty is explicitly linked to the pregnancy. In consistorial cases it was common practice to report the ages of the children of a marriage rather than dates of birth. Thus, overlap between pregnancy and cruelty could not be assumed. Further research using the ScotlandsPeople resource to link data from the SepDB with birth certificates would be required to uncover additional examples of this overlap. However, regardless of how the overlap is discovered, the critical point is that it needs to be found by the historian. This was not a phenomenon that the victims themselves considered worth discussing. Given that separation cases could include the issue of child custody, it would seem advantageous to highlight pregnancy as a trigger for cruelty if it existed. Isabella Barr repeatedly referenced John Bell's unreasonable parenting and his lack of affection for the children, but she did not state that his marital cruelty had been encouraged, or sparked, by her pregnancy.

7.3 The Convergence of Cruel Behaviours

Only by considering the story of the Bell marriage in its totality can the cruel behaviours that were present in the marriage be contextualised. As legal cases, separations were based on the

¹⁶ NRS, CS243/1144, Summons; NRS, CS243/4873, Summons.

Pursuer, Defender, and their witnesses' recollections of events. In some cases, decades had passed since the original incident. It is possible that dates or order of incidents were misremembered, or that intervening incidents were forgotten entirely. A third of incidents were habits that were reported to have occurred routinely throughout the marriage rather than being assigned to a specific date. As such, the data was not sufficiently precise to enable the creation of a timeline that could accurately and adequately represent the victim's experience of cruelty in marriage. However, by reviewing the story of Isabella and John's marriage as a whole, it is possible to begin to understand how the behaviours discussed in previous chapters overlapped and interacted. There are two different ways to approach the issue of what a cruel marriage looked like as a whole: the number of behaviours and incidents reported in a separation case; and the range of behaviour types and categories reported in a separation case.

In order to meaningfully manage the variety of cruel behaviours that were reported, the types (e.g. abuse with the body, economic neglect, or slander) were categorised (e.g. physical, economic, or emotional-verbal abuse). A single incident could be made up of multiple behaviour types (and by extension, numerous behaviour categories). For example, when in February 1881, the household servant resigned without explanation, Isabella had suspected John's drinking was to blame. She returned home and pleaded with him to leave the family because of the "disgrace" his presence brought upon them.¹⁷ In response, John drunkenly physically and verbally assaulted Isabella. He dragged her upstairs to their bedroom, pushed her into an armchair, took her by the ears, and shook her violently "for an hour without stopping". *At the same time*, he "used most disgusting language" and "improperly" reflected on her character.¹⁸ In the SepDB, this single incident was coded with the three behaviour types 'abuse with body', 'degrading language' and 'verbal aggression', and the two corresponding behaviour categories 'physical abuse' and 'verbal abuse'.

Evidence from the Barr *ag. Bell* case produced 74 behaviours spread across 35 incidents. Across the SepDB as a whole, the mean average was 25 behaviours and 17 incidents reported per case. As shown in Figure 7.1, the range was sizeable due to some clear outliers, and the median is a more useful average. Isabella's separation case included an above-average number of incidents and was an outlier in terms of the number of behaviours reported. While this case was more detailed than most, there was a general tendency to base a case on more rather than less information (both in terms of overall incidents and individual behaviours).

¹⁷ NRS, CS243/560, Proofs.

¹⁸ NRS, CS143/560, Proofs.

Although legally there was no minimum number of incidents a pursuer had to prove, this data suggests that victims were usually unwilling to abandon their marriage on the basis of one or two incidents. Instead, a pattern of continued cruelty, in various forms, was required to make a victim consider their marriage unviable.

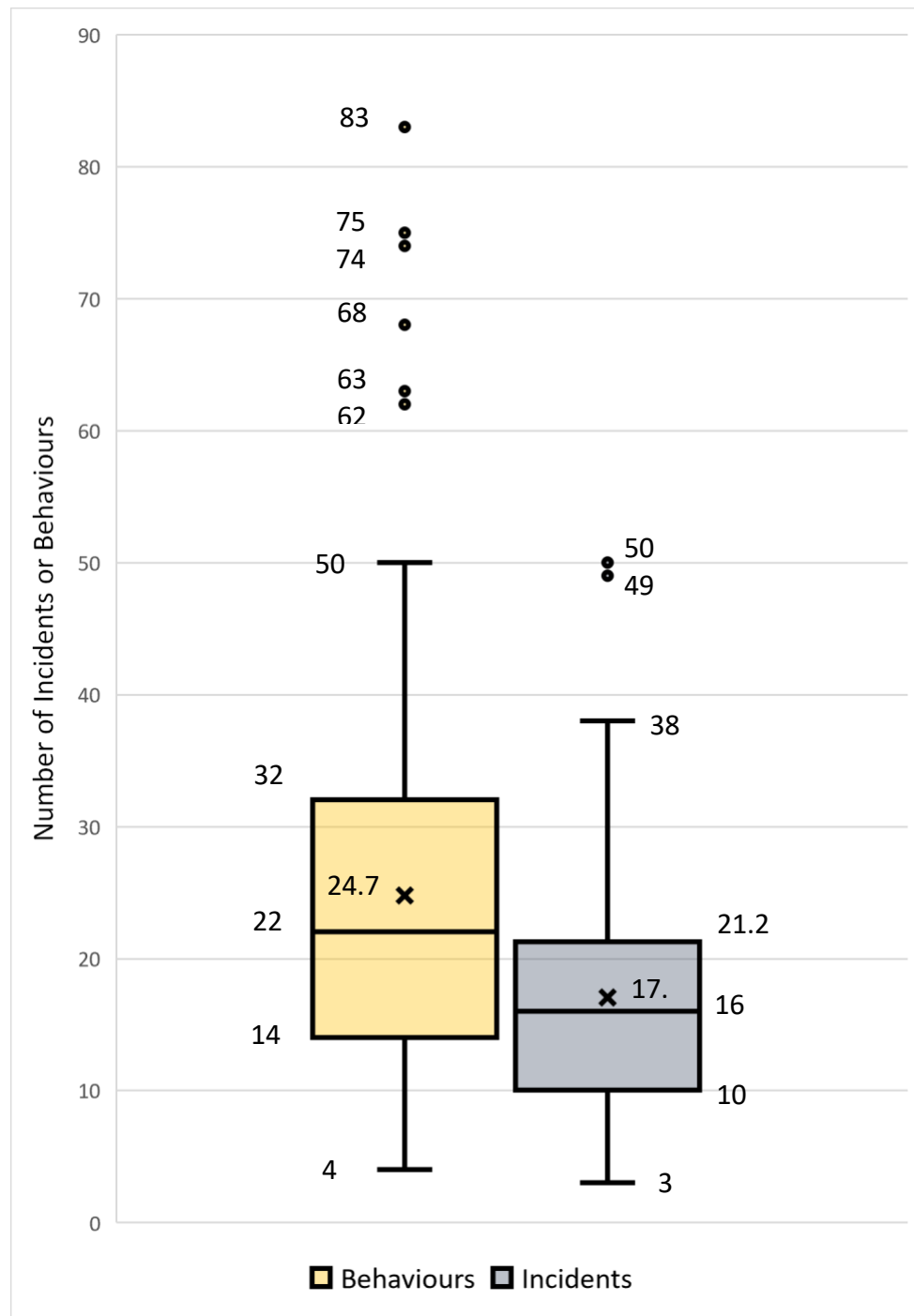


Figure 7.1: Average Number of Incidents and Behaviours Reported per Separation Case

The behaviour types reported in more than half of the separations are shown in Table 7.2. Isabella accused John of all five of these behaviours during her separation case, but she also accused him of 20 other behaviour types. To focus on these most commonly reported behaviours presented in Table 7.2 is to obscure the lived experiences of victims of marital cruelty. While 20 additional behaviour types were reported in the Barr *ag* Bell case, there were 150 other behaviour types reported. (See Appendix B for a full list of behaviour types reported across all three databases, by behaviour category). The top five behaviours shown in Table 7.2 were the most reported individual behaviours, and they were undoubtedly commonly experienced forms of marital cruelty, at least in marriages where the cruelty became so unreasonable that one spouse considered the marriage irreparable. In particular, examples of abuse with the body, ill-treatment, and a threat to life would have been compelling evidence in the Court of Session (hereafter, CoS) where the Pursuer was required to prove a threat to life or limb to secure a separation. However, focusing on these most common types alone distorts the picture. By taking a step back and focusing instead of the most reported behaviour categories, this misrepresentation of marital cruelty as only punches and kicks, alcoholism, generic unreasonable behaviour, aggressive words, and threats to life can be overcome.

Table 7.2: Most Reported Behaviour Types in the SepDB

Behaviour Type	Behaviour Category	Number of Cases	Percentage of Cases
Abuse with Body	Physical	109	89.34
Alcohol	Psychological	79	64.75
Ill-Treatment	Ill-Treatment	69	56.56
Verbal Aggression	Verbal	67	54.91
Threat to Life	Psychological	63	51.64

In Table 7.3, the behaviour categories that were reported in more than half of separations are shown. The dominant position of physical cruelty remains accurately represented with 93.44 per cent of separations, including an accusation of at least one behaviour type from the physical cruelty category. However, the prevalence of other forms of cruelty are better represented when this broader view is taken. No individual emotional or economic

behaviour types were reported in more than half of cases, and while some psychological and verbal behaviour types were featured in Table 7.2, they are better represented in Table 7.3. By considering categories rather than types of cruelty, it becomes clear that the majority of separation cases featured other sorts of unreasonable behaviour alongside physical cruelty. The top five behaviour types were arguably the most convenient forms of cruelty or in the case of the type ‘ill-treatment’ the most convenient way of accusing a spouse of cruelty.

Table 7.3: Most Reported Behaviour Categories in the SepDB

Behaviour Category	Number of Cases	Percentage of Cases
Emotional	118	96.72
Physical	114	93.44
Psychological	108	88.52
Economic	91	74.59
Verbal	71	58.20
Ill-Treatment	69	56.56

But as Tolstoy’s maxim goes, unhappy families are all unhappy in their own way.¹⁹ Only Annie Green reported that her husband, Hew Crawford Pollok, intimidated her by following her around the rooms of Pollok Castle with a large dog while she gathered her things having been ordered to leave.²⁰ Only Anna Heyliger complained that her husband, Dr Thomas Richmond, once wore nothing but a shirt and went about the house exposing himself for several days, even eating meals in this semi-nude state.²¹ Only Mary Donald complained that her husband, James Strang, would return home from brothels so filthy that she had to change the bedsheets.²² The originality of cruel spouses – brought about by circumstance or impulse – has meant that certain patterns of cruel behaviours have been challenging to identify. There was seven times the number of emotional behaviour types as there were physical behaviour types. It is only by taking a quantitative approach and using a database to catalogue these cruelties that these patterns can be accurately traced despite their diversity.

¹⁹ Quoted in Hammerton, *Cruelty and Companionship*, 4.

²⁰ NRS, CS46/1874/7/73, Summons.

²¹ NRS, CS243/6195, Summons.

²² NRS, CS243/1763, Summons.

Table 7.4: Details Relating to Separation Cases Where No Physical Cruelty was Alleged

CaseID	Year Proceedings Began	Husband's Occupation Category	Case Outcome	Economic	Economic - Emotional	Emotional - Verbal	Physical	Psychological - Emotional
C014	1895	Skilled Trade	Assoilized by Joint Minute	Yes	No	Yes	No	No
C021	1900	Skilled Trade	Successful	Yes	Yes	No	No	No
C043	1884	Skilled Trade	Successful	No	No	Yes	No	No
C105	1897	Skilled Occupation	Successful	No	No	Yes	No	No
C112	1844	Independent Means	Presumed Assoilized ¹	Yes	Yes	Yes	Yes ²	Yes ³

¹ See Chapter Two for a discussion of C112.

² The alleged physical behaviour was quickly admitted having been fabricated.

³ The behaviour type was 'threat family abuse' and so the Pursuer's life and health were not threatened.

When approached from a different angle, the data in Table 7.3 raises an interesting question. Could a separation case be brought entirely on the grounds of non-physical cruelty alone? A pursuer seeking a separation had to prove that their life or health would be endangered if they were to remain in the marriage.²³ Five of the 122 separation cases in the SepDB attempted to do this without citing any physical violence.²⁴ In Table 7.4 the outcome, demographics, and behaviour categories alleged in these five are detailed. While very rare, three of these pursuers successfully won a separation from their cruel husband without evidence of physical assault or threats thereof. Further, in the Russell *ag. Patterson* case (discussed above in more detail in Chapters Two and Five) the outcome is presumed to have been that the Defender was assoilzied; however, the CoS sought an alternative solution for this particular couple and eventually they were divorced.

7.4 The Cycle of Leaving and Returning

Although no details are known of John's cruelty towards Isabella before 1875, it was sufficiently threatening that Isabella took the children and went to stay with her parents.²⁵ It was usually necessary to leave the marital home in order to bring a separation case, but leaving could also be a way of managing a cruel spouse's behaviour without terminating the marriage. Like half of the pursuers in the SepDB, Isabella left the marital home and then returned at least once before bringing her consistorial case. As Table 7.5 shows, almost a quarter of pursuers repeated this cycle of leaving and returning more than once.

Annie Clark went furthest, leaving and returning to her husband Andrew Rose five times before leaving for good in 1894 or 1895. Annie and Andrew had married on 17 July 1888. The marriage certificate recorded Andrew's occupation as spirit salesman, but in her 1896 separation case, Annie explained he was a barman and occasionally found work as a labourer. Like Isabella Barr, when faced with poverty, Annie was resourceful. She began to manage a lodging house during her marriage. Andrew was an alcoholic. He contributed nothing

²³ Mackay, *Manual of Practice in the Court of Session*, 492.

²⁴ Four SepDB cases included no accusations of physical or psychological abuse, a fifth case initially made an accusation of physical abuse but during the course of the case the pursuer admitted that this accusation had been fabricated to bolster the case.

²⁵ NRS, CS243/560, Summons. If a spouse reconciled with a cruel spouse, then legally they condoned the previous behaviour. While that condonation was irrelevant and could be drawn upon as evidence if similar behaviour was alleged to have happened *after* the reconciliation, it is possible that Isabella and her lawyers decided not to include the earlier behaviours to avoid having to argue this point.

economically to the marriage and regularly physically assaulted his wife.²⁶ Annie first left Andrew in October 1889, when their first child – Alexander – was about five months old. In the Summons, it was explained that the day previously, Andrew had come into their home drunk and threatened to kill her. He knocked her down and started to kick her. His behaviour was so unreasonable that Annie left their home, then in Greenock, and went to Glasgow “to be out of his way”.²⁷ Andrew followed her there and induced her to return, but that night he threatened to shoot her and her sister, and he knocked their baby from Annie’s arms. Straight away, she left Andrew again. From then onwards they only ever cohabited intermittently. Annie did not always provide exact dates for incidents, but she certainly lived with Andrew in Clydebank for about five weeks in spring 1894. She had left, returned, and left again by the time their second child Malcolm was born in January 1895. In 1896, with the help of her parish, Annie raised a case against Andrew and was successfully granted a separation. Andrew Rose and John Bell, like so many other cruel spouses, promised to amend their behaviour and convinced their wives to return home. If they had meaningfully changed their ways, these records of separation might never have existed.

Table 7.5: Distribution of Times Pursuer Left and Returned

Number of Times the Pursuer Left and Later Reconciled with the Defender	Number of Cases
1	33
2	19
3	7
4	2
5	1
Total	62

7.5 Why Pursuers Sought a Separation

²⁶ NRS, CS46/1896/6/121, Summons.

²⁷ NRS, CS46/1896/6/121, Summons.

Isabella left John for the second and last time on 4 March 1883. Over the last month he had repeatedly been out of work, he had been drinking heavily, and he had regularly smashed household furniture, threatened – and followed through with – attacks on Isabella, and wastefully slept with the gas burning all night. On that Sunday morning in March 1883, while the children were at church, Isabella watched John “stomping around in a great rage”. When there was apparently no alcohol left in their home, he resorted to drinking the whisky from the nursery. John’s angry and violent disposition made Isabella fearful of her own safety. Their servant Elizabeth Ross helped Isabella pack some things and escape without John noticing. Although Isabella and John never cohabited again, John’s escalating rage that first weekend in March 1883 was not the final dated incident reported in Isabella’s Summons. John sent word to Isabella demanding the keys to a locked wardrobe in which Isabella usually kept a small bag of money. When Isabella refused to send them, John used a hatchet to break into the wardrobe. He also smashed a sideboard with the hatchet too. Elizabeth – who was still working in the Bell home – explained during testimony that he had tried to cut Isabella’s clothes, but that she had been able to convince him against that. Elizabeth also testified to John’s continued anger towards Isabella reporting that he “said something about his wife... that he would be hung yet for murdering her and that he would pursue her to her grave”.²⁸

It is alluring to want to be able to explain the final straw, the thing that made the victim call it quits on their marriage and seek the potentially life-long legal intervention of a separation or divorce. But the *Barr ag. Bell* case shows clearly that it is not a simple task. Isabella decided to leave the family home in reaction to the behaviour types alcoholism, property destruction, threat, economic negligence, and verbal aggression. After leaving, but before raising the case, John perpetrated the behaviour types property destruction and threat to life. Taken at face value, the last dated incident in the Summons was a threat to life. Isabella had left John before and later resumed cohabitation. Arguably John’s vow to kill her could have convinced her to take more substantial action this time around. It is also equally plausible that Isabella knew that she would never return when she decided to leave the family home. Her case was constructed within weeks and was signeted (registered with the CoS) on 4 April 1883. This speed was not unusual. As Figure 7.2 shows, half of cases were signeted within three months of the last dated incident. The mean number of days between the last dated incident and a case being signeted was high (217.82 days) because there were seven outlying cases that were not signeted for two to five years after the final dated incident.

²⁸ NRS, CS243/560, Proofs.

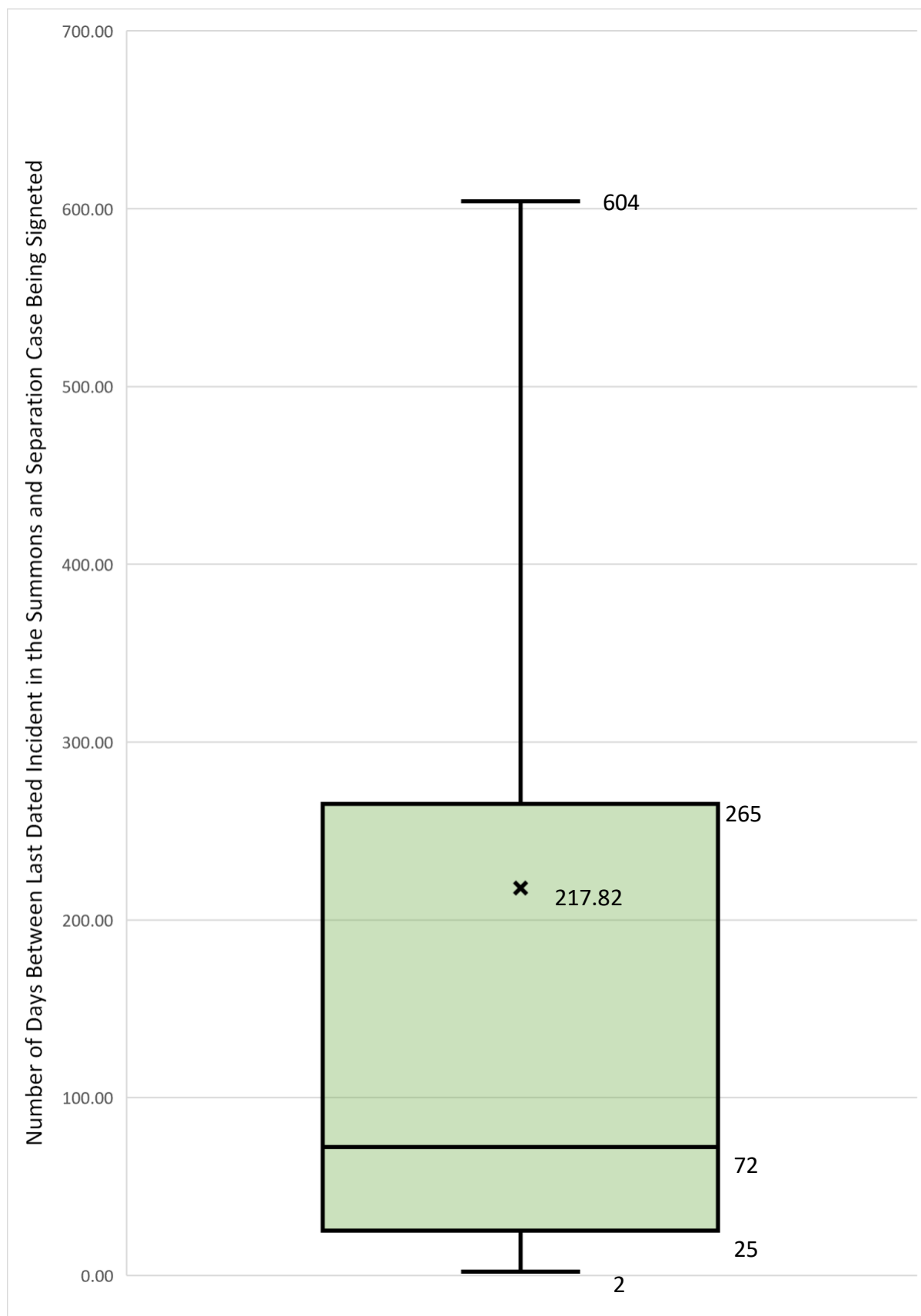


Figure 7.2: Time Between Last Incident and Case Being Signed

NB: The seven outlying cases were not included in this figure.

The thought processes of pursuers are not outlined in the case files. We cannot know whether Isabella had made up her mind to legally separate from John when she left that morning in March, or whether his threat to her life was the tipping point. Although we cannot determine whether the final dated incidents in the Summons were precisely what pushed the Pursuer to seek legal intervention, a survey of these last dated incidents – those which certainly occurred before the case began to be prepared – can still be useful.²⁹ In the SepDB it was possible to determine the final reported incident in 117 of the 122 cases and the distribution of prominent behaviour types and categories are displayed in Tables 6.6 and 6.7.

Table 7.6: Behaviour Types Reported in 10% or More of the Final Incidents Reported During Separation Cases

Behaviour Type	Number of Cases	Percentage of Cases
Abuse with the Body	38	32.47
Threat to Life	17	14.53
Defender Left	12	10.26

Table 7.7: Behaviour Categories Reported in 10% or More of the Final Incidents

Behaviour Category	Number of Cases	Percentage of Cases
Physical	59	50.43
Psychological	47	40.17
Emotional	25	21.37
Economic Emotional	15	12.82
Legal	13	11.11

²⁹ It was standard practice to include a final condescendence with a summary of the defender's cruelty towards their spouse, and towards any pupil children of the marriage when child custody was being considered. Thus, the last dated incident rather than the last incident recorded in the Summons should be used. Later dated incidents reported during the Proofs were more than likely unknown to the Pursuer at the time they raised the Summons, otherwise they would have been included, and so are not considered in this survey.

Tables 6.6 and 6.7 are based on single incidents. Thus, addressing the behaviour types rather than the behaviour categories more accurately explains why a pursuer chose to bring a separation case. However, there were 45 distinct behaviour types reported across the 117 cases, and so the behaviour categories data offers a helpful summary. The most frequent individual behaviour types (Table 7.6) were associated with physical harm or threats thereof. In these cases, the victim escaped during the course of a dangerous incident and raised their separation case rather than returning to their spouse. The third individual behaviour type that was commonly reported was that the Defender had left the home. This desertion of the Pursuer did not meet the legal requirements for divorce – desertion of four or more years – but the victim suffered the same emotional and economic consequences and was spurred to take legal action.

Viewing the final incident behaviour through the broader lens of the behaviour categories (Table 7.7) reveals two final groups of behaviours worth noting: emotional cruelties and a series of behaviours clustered under the heading ‘legal’. One of the prominent behaviours among emotional cruelties was adultery. Although from 1564 proof of adultery could secure a divorce, it also remained a justification for a separation, which was appealing to some because it enabled the Pursuer to be granted an aliment. The other main behaviour types in this category were related to the act of putting the Pursuer out of the home or banning them from entering. Finally, in eight cases the final incident was an extra-judicial agreement between the parties to live separately, and in five cases the last recorded incident was a judicial action for aliment in the Sheriff Court or Small Debt Court. While coming from different directions, both of these actions signal attempts by the Pursuer to try alternative paths before resorting to a separation case at the CoS.

A broad range of behaviours made up the final incidents reported during separation cases, but it was most commonly an incident that made the pursuer fear for their life: physical abuse or threats thereof. In the SepDB, 95.61 per cent of the cases that reported physical cruelty reported more than one incidence. Thus, for the most part, the physical cruelty that made up that last incident would not have been the first time the Pursuer had been victim to such behaviour. The last reported incident was not necessarily the worst incident, or the most painful, or the scariest. But it was the straw that broke the camel’s back – the final act of cruelty that broke the victim’s will to endure unreasonable behaviour for the sake of the marriage.

7.6 Conclusion

Marriages that involved cruelty all varied in individual ways, but in this chapter, some of the most common patterns and points of divergence have been considered. Not all marriages that became cruel started that way. Some couples experienced an amicable period of marriage before their relationship deteriorated. Subsequently, triggers for cruelty can occasionally be observed. In the context of Victorian Glasgow, alcoholism was the single most commonly identified trigger. This research has also shown that though an overlap can be found between pregnancy and the commencement of cruelty, this was not a connection that victims themselves drew from their experiences.

By retelling the full story of the marriage of Isabella Barr and Captain John Bell, this chapter has attempted to convey the interrelatedness of the behaviours that have been considered distinctly in the previous chapters. The data shows that marriages did not come before the CoS on the grounds of one incident of cruelty alone. A number of different behaviour types, spanning various categories of behaviour, were perpetrated together to create a ‘system of maltreatment’. When faced with repeated cruelty, victims tried to manage the situation in different ways. Isabella left John in 1875 and only returned on the promise of better behaviour.

For most victims, the will to endure their spouse’s cruelty for the sake of sustaining the marriage and family unit was broken by an incident of physical violence or a threat thereof. However, a small but significant number of Pursuers also revealed that they had tried to resolve their marital issues in a lesser court or without involving the legal system at all, before resorting to a CoS action. Though the evidence is limited, this revelation goes some way to explaining why so few cases of separation were lodged with the CoS.

It is the intention of this thesis to cajole the range of experiences accumulated over the course of a marriage that involved cruelty into a coherent narrative. This chapter, and Part II more broadly, have attempted this in relation to the wide variety of behaviours that cruel spouses employed. At the same time, the expectations of spouses have been uncovered. Notably, Chapter Four, section 2, in particular, has shown that spouses held romantic expectations as well as the economic ones discussed in Chapter Five. In the final part, the responses of victims of marital cruelty, witnesses and judges, will be interrogated. First, the mechanisms that helped victims endure the cruelty they faced will be examined. On both occasions that Isabella fled from John, she was provided refuge by her father, but there were other people and other ways that a victim of marital cruelty could be helped, and these will be discussed in Chapter Eight. Despite all of John’s physically violent behaviour, Isabella never made use of the police. The experiences of victims who did rely on varying levels of police intervention to manage cruelty will then be considered in Chapter Nine.

Part III: Coping with Cruelty

Chapter 8 Who Gave What Help?

This chapter will consider the occasions when people agreed or chose to help victims of marital cruelty. The decision to help was a judgement call based on a number of factors. The helper had to decide whether what they witnessed, or were informed about, was so unreasonable that it warranted their intervention in a couples' marriage. Decisions about how, or whether, to help were influenced in part by the class of the couple, and the time that the incident took place, but more so by the relationship between the victim and would-be helper. Proximity mattered, but so too did the willingness of victims to tell their story especially to more peripheral characters. Importantly, the would-be intervener had to consider their own safety in the situation too.

The different types of helpers were separated into three categories. The first group was composed of those closest to the couple both geographically and emotionally. Servants, some family members, and lodgers could all reside inside the marital home, and neighbours, other family members, and friends were usually located nearby. The second group – unofficial outsiders – was made up of people who were more removed from the inner circle: acquaintances, employers, employees, 'other/s', and strangers. Finally, the third group was official outsiders. Here were the medical, religious and poor law officials – people whose profession brought them into contact with those who required help with unreasonable spouses. As the use of the police will be investigated as a strategy in its own right in Chapter Nine, the help provided by the police will not, for the most part, be addressed in this chapter.

Once the decision to help was made, there were four distinct forms such help could take: presence, intervention, refuge, and relief (Table 8.1). The latter three forms of help were also observed by Joanne Begiato (Bailey) in her survey of married life in England during the long eighteenth century.¹ Begiato (Bailey) also recorded advice, particularly from friends, as a form of help, though this was not observed in the Glaswegian cases.² This chapter will address the four methods of help in the order that they might be sought, or offered, in relation to the course of an incident of cruelty. Presence was the form of help that allowed the victim the most agency, and was the only form that could, sometimes, be prearranged. Once an incident had begun, a helper might choose to intervene to try and stop the abuser. In order to escape an incident, or to allow for a cooling down period, the victim might seek refuge with someone

¹ Bailey, *Unquiet Lives*, 32–33.

² *Ibid.*, 34.

else. Finally, after an incident, a helper might provide a victim with economic relief. Sometimes this aid was given directly in the form of cash and sometimes it took the form of goods or services.

Table 8.1 Number and percentage of cases that reported each form of help

Form of Help	SepDB		DivDB		CCDB	
	No. of Cases	<i>Percentage</i>	No. of Cases	<i>Percentage</i>	No. of Cases	<i>Percentage</i>
Presence	17	<i>13.93</i>	3	<i>6</i>	1	<i>0.21</i>
Intervention	64	<i>52.46</i>	3	<i>6</i>	59	<i>12.14</i>
Refuge	45	<i>36.89</i>	9	<i>18</i>	10	<i>2.06</i>
Relief	19	<i>15.57</i>	4	<i>8</i>	0	<i>0</i>

Most of the examples of help were found in the separations database (hereafter, SepDB). Stories of help convey the helpers' opinions towards the unreasonable behaviours they witnessed or were made aware of. Thus, including these examples could give more weight to a pursuer's case. A divorce could only be granted when adultery or desertion was proven. Although half of divorces included reports of other forms of unreasonable marital behaviours, perhaps reports of additional characters and the judgements they made in providing help were considered unnecessary. In the criminal court database (hereafter, CCDB) the low rate of reporting of help can be explained by the fact that these cases were based on newspaper reports. As space restrictions meant the newspaper were primarily interested in the criminal prosecution, details of the help the victim received would often have been superfluous.

8.1 Presence

There was one form of help uncovered in this research that could be (but was not always) proactively organised: the presence of another person. A victim of cruelty might arrange for someone that they trusted to spend time with them and their spouse. This could be done in advance of any cruelty at all. Alternatively, a victim might call upon someone nearby in the moment that they began to feel in danger as a precaution to prevent cruel behaviour from

escalating. Or, finally, the victim might play no part in the organisation of an outsider's presence at all, as the outsider might just aimlessly stumble upon an act of cruelty and their presence would put a stop to it.

The presence of another person worked to prevent, or end, cruel behaviour because it motivated the abuser to act in their self-interest to avoid repercussions. Not every abusive spouse, on every occasion, would be overcome by self-preservation and stop their cruel behaviour to prevent themselves being caught. However, one husband in the SepDB actively tried to prevent outsiders from discovering the cruelty he perpetrated. Elizabeth Revie explained that her husband, John Aitken, would lock the door to their home before physically assaulting her because it enabled him to "better ... wreak his vengeance" on her.³ John knew what he was about to do was unreasonable, but he did not want to be interrupted by outsiders – usually neighbours – who tried to intervene to help Elizabeth.

Presence was not a commonly reported form of help. It was mentioned in 17 separation cases, (13.93 per cent), and 3 divorces (6 per cent). Only one of the 486 CCDB incidents mentioned presence, however, this rate was likely so low because of the medium, rather than anything to do with the police courts cases themselves. As criminal court cases were reported in newspapers, peripheral information about the help a victim received would not have been reported on unless it was important to the case.

In the SepDB, this form of help began to be reported in the 1850s (Figure 8.1). Between the 1850s and 1900s the rate remained steadily between 10-20 per cent of cases even as the number of cases grew in real terms. This form of help only featured towards the end of the period in the divorce database (hereafter, DivDB) and CCDB. In the SepDB, presence was reported in cases from across the class spectrum too (Figure 8.2). Presence was reported least by couples from the skilled trade category (9.09 per cent of those 33 cases), and most by those from the professional occupation category (28.57 per cent of those 7 cases). The higher level of reporting in the SepDB makes it possible to track the changes in reporting by occupation category over time (Table 8.2). These statistics paint a picture of presence as a form of help that was originally associated with the middle classes but was adopted by other social groups as the century progressed. To learn what this action can tell us about how certain people considered marital cruelty at this time, we need to look more closely at how presence worked in practice.

³ National Records of Scotland, Edinburgh (hereafter, NRS), CS243/79, Summons.

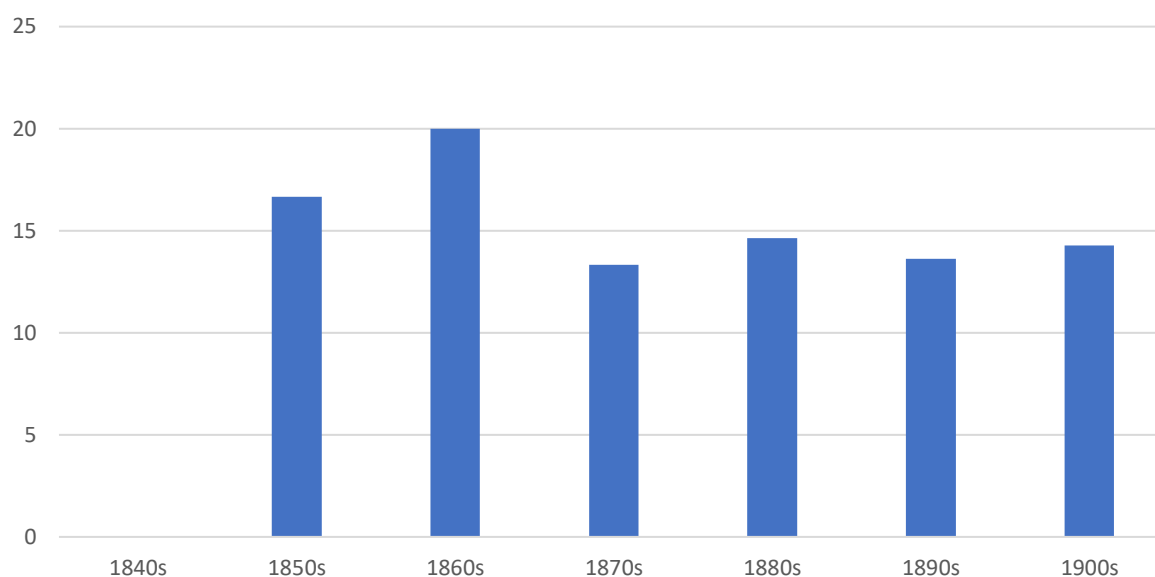


Figure 8.1 Percentage of cases that reported help in the form of 'presence', by decade

(NB: there were no DivDB or CCDB cases that reported this behaviour type)

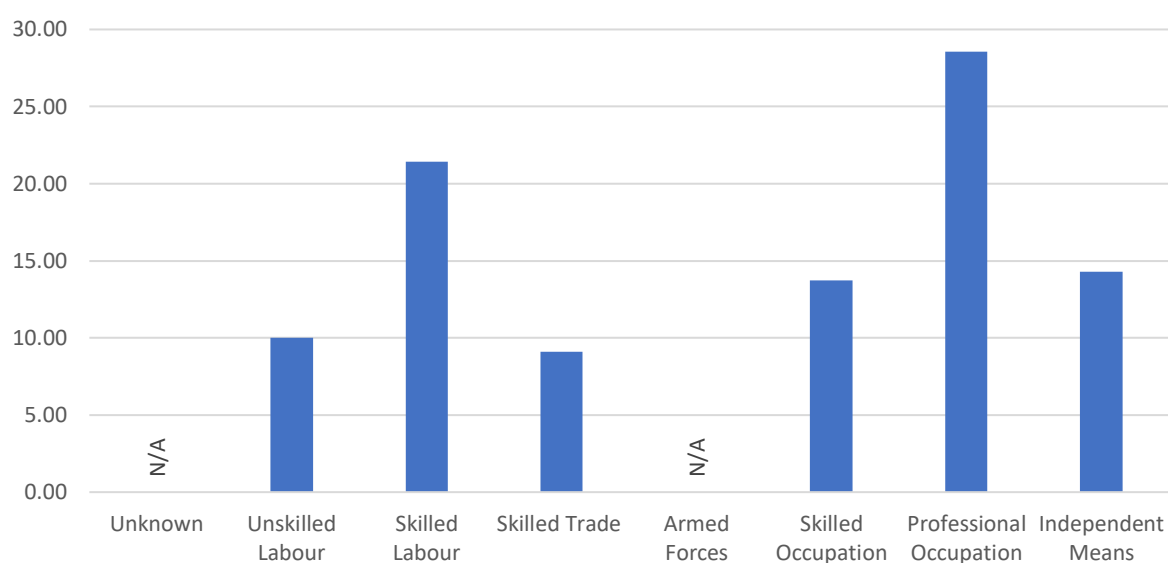


Figure 8.2 Percentage of separation cases that reported help in the form of 'presence', by husband's occupation category

(NB: there were no DivDB or CCDB cases that reported this behaviour type)

Table 8.2 Percentage of separation cases that reported help in the form of ‘presence’, by decade and husband’s occupation category

Husband’s Occupation Category	1840s	1850s	1860s	1870s	1880s	1890s	1900s	Total
Independent Means	0	0	-	0	-	100	-	14.29
Professional Occupation	-	-	-	100	50	0	-	28.57
Skilled Occupation	0	0	33.33	20	15	10.53	0	13.73
Armed Forces	-	-	-	-	-	-	-	-
Skilled Trade	-	100	0	0	0	7.14	20	9.1
Skilled Labour	0	0	-	0	28.57	100	0	21.43
Unskilled Labour	-	-	-	-	0	20	-	10
Unknown	-	-	-	-	-	-	-	-
Total	0	16.67	20	13.33	14.63	13.63	14.28	13.93

8.1.1 Family

Help in the form of presence was most likely to be provided by family members, and examples of this appeared in all three databases (Figure 8.3). In the single criminal court case that mentioned the use of presence to control the perpetrator’s behaviour, the other person was the victim’s mother. Patrick McDonald was described as a printfield labourer with a “respectable appearance” by Justice James Macdougall at the Pollockshaws Justice of the Peace Court in January 1896.⁴ Two days before, he “became noisy, and threatened his wife with violence”. His wife, known only as Mrs McDonald, had gone to her 77-year-old mother Mrs McVey and asked her to return home with her. Mrs McDonald had hoped that her mother’s presence would calm her husband, but Patrick instantly told his mother-in-law to leave. When Mrs McVey

⁴ *Glasgow Herald*, 14th January 1896.

would not leave, Patrick turned his anger against her and physically attacked her. When Mrs McDonald tried to help, she too was physical assaulted.⁵ Mrs McDonald, upon recognising her husband's growing temper, had tried to protect herself through the presence of her mother. Patrick, on this occasion at least, had not been phased by his elderly mother-in-law's presence and had instead simply assaulted both women.

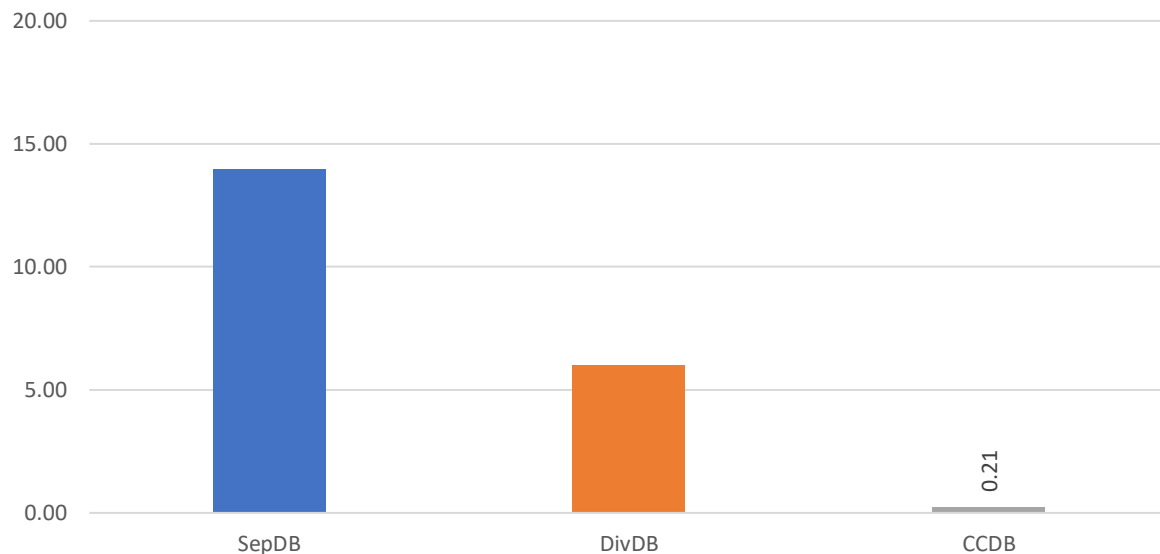


Figure 8.3 Percentage of cases that reported help in the form of 'presence' provided by family members

In the examples from the separation and divorce cases, the victims' thought processes can be observed more clearly. Victims described feeling scared of their spouse's behaviour and then explained that to counteract this, they would trust their family members to protect them. Victims did not want their family members to interfere or chastise the perpetrator but simply to scare them into not behaving cruelly. Ellen Wylie was an independently wealthy widow when she married accountant Archibald Gair in 1876. By June 1878, Ellen felt compelled to leave Archibald's house in fear for her life. In the Summons, Ellen's legal team explained that she had believed a few days apart would have made Archibald "quiescent".⁶ When Ellen returned home in the middle of June, she found she had been wrong and that Archibald's

⁵ *Glasgow Herald*, 14th January 1896.

⁶ NRS, CS46/1879/11/68, Summons.

behaviour was just as dangerous. Rather than leave again, Ellen sought the presence of Archibald's mother. Mrs Gair resided with the couple for a month, and her presence appears to have worked to control Archibald's behaviour because Ellen did not report another incident of cruelty until the middle of July.⁷ Ellen and Archibald's social status was important. It was only because Mrs Gair was not in formal employment that she was able to help Ellen in this way. For less wealthy couples, it would have been much more disruptive to ask a parent, or any family member, to be present for such a long time.

Given the larger number of recorded incidents of presence by family members, we can observe how the format of presence worked across class and time. The Wylie against Gair separation case of 1878 was from the professional occupation category. This was the only case where such a lengthy period of presence – one month – was recorded. In the 1880s and 1890s the examples of presence by family members were all one-off occasions, despite the varying income levels of the couples in the cases. In 1887 Mary Brown brought a separation case against her husband William Mackay. William's status was recorded as 'portioner' – a Scots term meaning the proprietor of a small estate – which placed the couple in the independent means category. At the beginning of October 1884 William had tried to strangle Mary with a handkerchief. Then on October 20 he had struck her on the head and knocked her to the ground. For this assault he was tried at a Glasgow Police Court on the 24 October 1884, convicted, and given the option of 14 days' imprisonment or a £3 3s fine, which he paid. William was also ordered to keep the peace for twelve months, and he left a £10 deposit as caution for good behaviour. At William's request, Mary agreed to go back home with him after the trial, but his unreasonable behaviour resumed. Just the day after the trial William threatened Mary. To prevent William's behaviour escalating again, Mary sent word to her mother, who promptly came to the house and stayed all night.⁸ On 26 October 1884 Mary left William's home for good and she raised a separation case a few years later.

Ellen Haughian relied on her family's protection against her husband John Bradley. John Bradley was a steelworks labourer and the couple were part of the unskilled labour occupation category. At the beginning of November 1898, after a physical assault that resulted in John locking Ellen out of their home, Ellen went to her sister's house. Ellen stayed with her sister for a few hours, but she was too afraid to return to her own home alone. Ellen's brother-in-law Peter McAlister offered to accompany her for protection and agreed that he would stay

⁷ NRS, CS46/1879/11/68, Summons.

⁸ NRS, CS46/1888/2/22, Summons.

until things seemed to have settled down. Peter was evidently aware that his presence would be able to guard against John's cruelty and encourage him to conduct himself more respectably. As soon as Peter left, John's behaviour became cruel again. He verbally abused Ellen, threw bed clothes at her, and rushed at her, shoving her against a door before striking her on the face. While it had seemed that Peter had left, he had in fact been waiting in the hallway, having only pretended to leave. In his testimony, Peter explained that he had hidden in the lobby rather than leaving completely because he had been "determined to find out who was to blame". After hearing the cruelty begin, Peter re-entered the house, approached John, and said that he "did not think that was the kind of man [John] was". Ellen then left the house with her brother-in-law, and she still resided with her sister's family at the time of the separation case.⁹

A final example of the presence of a family member comes from the 1901 case of Sarah Lynagh against John McCaffrey. In this case the presence was not sought to prevent ill-treatment. Instead, Sarah sought the presence of her mother to make her a witness to John's emotional abuse: keeping late hours. Sarah testified that John would routinely come home incredibly late in the evening, and that she sometimes had her mother, Jessie Lynagh, sit with her and wait for John to come home. Sarah explained that Jessie was never able to stay long enough to see John return home late though, because he kept *such* late hours.¹⁰ This example is interesting on two levels. First, the behaviour that Sarah is complaining of was not physical cruelty, nor was it generically referred to as ill-treatment. Sarah explicitly complained that her husband would stay out late at night rather than being at home with her and their young children. For Sarah, this was a particular point of contention. While giving testimony, Sarah reported "When we were married, he seemed to think I should stay in the house, and he should get leave to sport about."¹¹ In seeking the presence of her mother, as other victims did in relation to more dangerous behaviours, Sarah may still have been trying to scare her husband into behaving more reasonably: were his actions to become known to his mother-in-law, then his wife would have a witness for her unreasonable behaviour. This example is also interesting because Sarah's mother Jessie was unable to remain in the house overnight. As a butcher's salesman, John and Sarah were in the skilled labour category. Sarah's father, Patrick Lynagh was a merchant and Jessie assisted him with this work, which would place them in the skilled occupation category. Furthermore, Sarah was 22 years old and her mother Jessie was 50 years old at the time the case was raised in 1901 so it is possible, likely even, that Sarah had younger

⁹ NRS, CS46/1899/10/16, Summons; NRS, CS46/1896/10/16, Proofs.

¹⁰ NRS, CS243/5192, Proofs.

¹¹ NRS, CS243/5192, Proofs.

siblings who still resided with Jessie and Patrick. Unlike in wealthier families where mothers were recorded as staying for extended period, the Lynagh family relied on Jessie's unpaid labour and this likely contributed to the fact that she was unable to stay overnight.

8.1.2 Servants

After family members the second most likely group to provide help through their presence were servants. All the examples of servants being present to protect victims came from the SepDB and from cases brought during the 1880s. In terms of class, the first case to mention servants being present was heard in 1880 and came from the skilled labour occupation category. There were then two examples from an 1884 case brought by a couple from the professional occupation category, and finally one example from 1888 case of a skilled occupation category couple. In half the examples the presence was pre-arranged and in the other half the presence was an impromptu response to a growing need for protection. In the skilled occupation example and in one of the two professional occupation category examples, the victims chose to have their servants sleep with them as a preventative measure against incidents occurring through the night.

Elsie Gordon, whose husband John Humphreys was a barrister, had their servant Agnes Meek sleep in her locked bedroom on the night of the 22 January 1884. Elsie had arranged this to prevent John from behaving cruelly, but John had gotten in through the bedroom window and turned Elsie and Agnes out of the room. Elsie explained that, seeing no other way to protect herself from John, she lodged a complaint with the police. Elsie's interpretation of the situation is telling. Elsie had hoped that the presence of her servant Agnes – a woman who had resided in their home for about six weeks at the time of this incident – would have been enough to stop John from acting out. When this was not enough, Elsie felt she had no choice but to seek the help of the police – a much more public disclosure of her husband's behaviour.¹²

Mary Hume also slept with her servant in the hope that it would encourage her husband to behave less cruelly. Mary's husband, David MacDonald, was a tailor and their more limited means is discernible in the way Mary went about doing the same thing Elsie had done. Mary and David shared a bedroom and so Mary could not have the servant sleep with her.

¹² NRS, CS243/3094, Summons.

Instead, Mary “withdrew herself from connubial intercourse with [David],” and “took up her abode in the lower flat of the house, and slept with the servant for protection”.¹³

In both of the remaining incidents involving a servant’s presence, the victims believed themselves to be in immediate danger and called upon their servants for help. In each case, rather than needing to intervene, the presence of the servant alone was enough to alter the abuser’s behaviour. Ship pilot Peter Williams had been threatening to attack his wife Margaret Nicholas with an axe in their kitchen in May 1879. Margaret responded by calling for their servant Catherine Taylor.¹⁴ Peter promptly dropped the axe and instead of attacking Margaret, he smashed all the ornaments in the room. It was later explained in the proofs that Catherine left the family’s service because Peter said “that no one who would be a witness against him should be in his house.”¹⁵ For Peter, the knowledge that someone he could not easily control could see him acting cruelly towards his wife and potentially report his behaviour to others outside the household was dangerous, and so he got rid of that person.

The last example came from the aforementioned case of Elise Gordon against John Humphreys, and goes some way to explaining why Elise had thought that having her servant sleep with her might have prevented John from behaving cruelly though the night. In October 1883 the couple had been staying in the Victoria Hotel at West George Street in Glasgow. John had seized Elsie by the throat and begun to strangle her when she managed to ring the bell for the servants. A waiter appeared at their room and John became “quiet” straight away.¹⁶

8.1.3 Unofficial Outsiders

There are only two examples of those outside of the family, who were not servants, providing help to the victim through their presence. The first example came from the 1890 case of Jessie Findlay against John Gibson in the SepDB. John had been drinking heavily throughout 9 September 1880 and Jessie was concerned about how his behaviour might develop through the night, so she sought the presence of a Mr Martin who worked for her husband in his potato merchant business. John’s period of heavy drinking had not begun on 9 June though. It had started the day before, on 8 June. On that evening, Jessie’s sister Mary Findlay had spent the night with them in their home in Glasgow to protect Jessie. Mary had only been able to stay

¹³ NRS, CS246/1506, Summons.

¹⁴ NRS, CS46/1881/3/14, Proofs.

¹⁵ NRS, CS46/1894/8/24, Proofs.

¹⁶ NRS, CS243/3094, Proofs.

for one night though.¹⁷ While family had been Jessie's first choice, John's behaviour had continued to be dangerous for longer than her family member was able to stay, and Jessie had to rely on someone outside her immediate family. On this occasion the person she trusted was one of her husband's employees, not a stranger in the way that a doctor or the police might have been, but certainly second choice.

The second example, from the DivDB, involved a stranger halting an attack with their presence. Margaret Duncan and William Walker lived, and in Margaret's case worked, in Margaret's father's inn, in Saltcoats, Ayr. One day when Margaret's father called on Margaret to look after a hotel bill, William forbade her to go. When she made to go regardless, he began to physically and verbally assault her. William was so loud that "a gentleman looked out of the dining room door." Upon realising his behaviour had been noticed, William let Margaret go. As soon as the male hotel guest had returned to what he had been doing before, William resumed his attack on Margaret. Now he tried to throw her over the bannister but was prevented by Margaret's sister Mary who threatened to call for the police.¹⁸ This example provides some insight into William's thought process. When William realised that a stranger was able to see what was going on, he stopped his cruelty immediately. With his sister-in-law, William was less cautious. It was not until Mary threatened to involve the police, further outsiders, that William was deterred. William was clearly careful not to allow his violence to become known to those outside the immediate family. Likely motivated by a sense of self-preservation (against a police prosecution), evidently, even without the proactive decisions of victims to seek the presence of others, abusers were aware that they should shield their behaviour from outsiders.

These examples of presence by unofficial outsiders, while small in number, provide evidence that marital cruelty was considered by some victims to be a shameful situation.¹⁹ The fact that the majority of examples came from those further up the social hierarchy is perhaps what we might have expected to find – those of higher social standing were most concerned about others being aware of their abusive behaviour. Notably, when they had the choice, victims most commonly sought the presence of family members who they trusted most.

8.2 Intervention

¹⁷ NRS, CS243/2750, Summons.

¹⁸ NRS, CS46/1890/10/85, Summons.

¹⁹ For an analysis of the enduring power of shame, see Nash, David and Anne-Marie Kilday, *Cultures of Shame: Exploring Crime and Morality in Britain 1600-1900* (Basingstoke, 2010).

Intervention was by far the most commonly reported form of help in this research overall. The term ‘intervention’ refers to occasions when a person, or group of people, tried to stop cruel behaviour that was already happening. The helper(s) might have physically put themselves between the abuser and the victim, or held the abuser back, to stop the cruel actions. Alternatively, they might have verbally convinced the abuser to alter their behaviour. Some people recognised their lack of power in relation to the abuser and intervened by seeking the help of someone with more influence to act in the aforementioned ways.

In the SepDB intervention was reported at least once in 66 of the 122 cases. Intervention began to be reported in separation cases from the 1850s onwards (Figure 8.4). In the 1850s, 67 per cent of cases reported intervention (4 cases). As the number of cases brought per decade grew threefold, the proportion of cases reporting intervention dropped to around 50 percent, where it remained for the rest of the decade. In terms of class, intervention was most commonly mentioned by the skilled trade and skilled labour categories (Figure 8.5). The skilled occupation and unskilled labour categories both made mention of intervention in about 50 per cent of cases, and the rate was lowest amongst the elites, with 37.5 per cent of independent means category, and just 28.6 per cent of professional occupation category cases reporting intervention. The particularly low rates of intervention at independent means and professional occupation categories can be explained by the fact that there were no reports by cases from either category after the 1880s; the reason for this drop-off in reporting will be further investigated below.

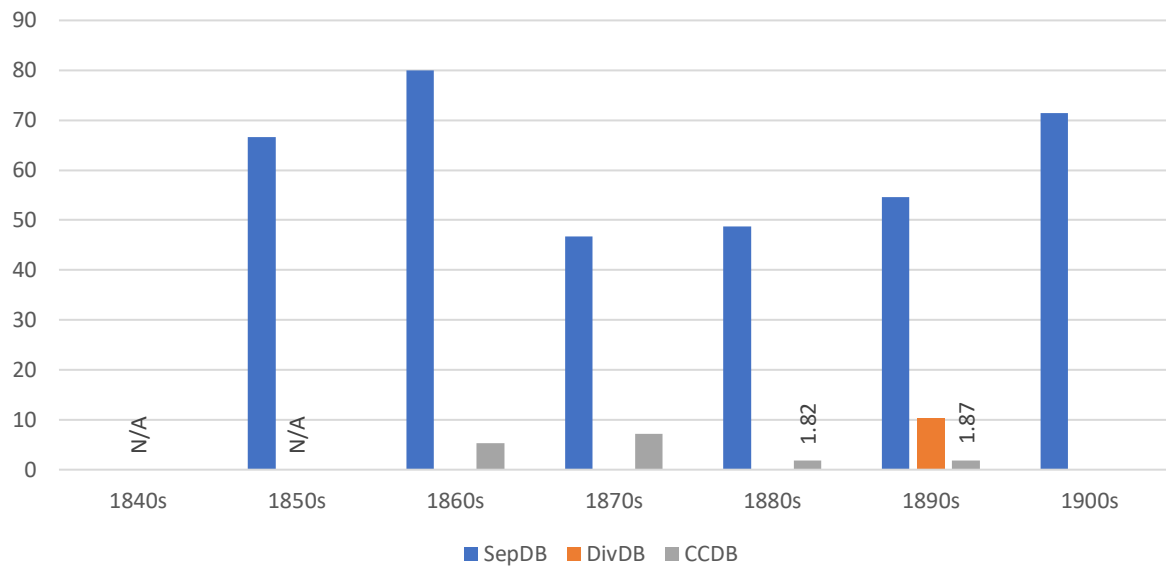


Figure 8.4 Percentage of cases that reported help in the form of 'intervention' by decade



Figure 8.5 Percentage of cases that reported help in the form of 'intervention' by husband's occupation category

Overall, it was a form of physical cruelty that spurred a helper to intervene in 80.3 per cent of separation cases.²⁰ The incident involved a form of psychological cruelty around 40 per cent of the time, and emotional cruelty around 20 per cent of the time. As Figure 8.6 shows, physical behaviour was a significant factor in intervention across the Victorian period. The rate of intervention in response to psychological abuse fluctuated across the century, though was present in each decade.²¹ As Figure 8.7 shows, the dominance of physical abuse in incidents that led to intervention varied between the occupation categories, but as both the independent means and skilled labour category cases reported intervention in response to physical abuse at a similar lower level of around 60 per cent, no conclusions can be drawn with relation to the influence of class.

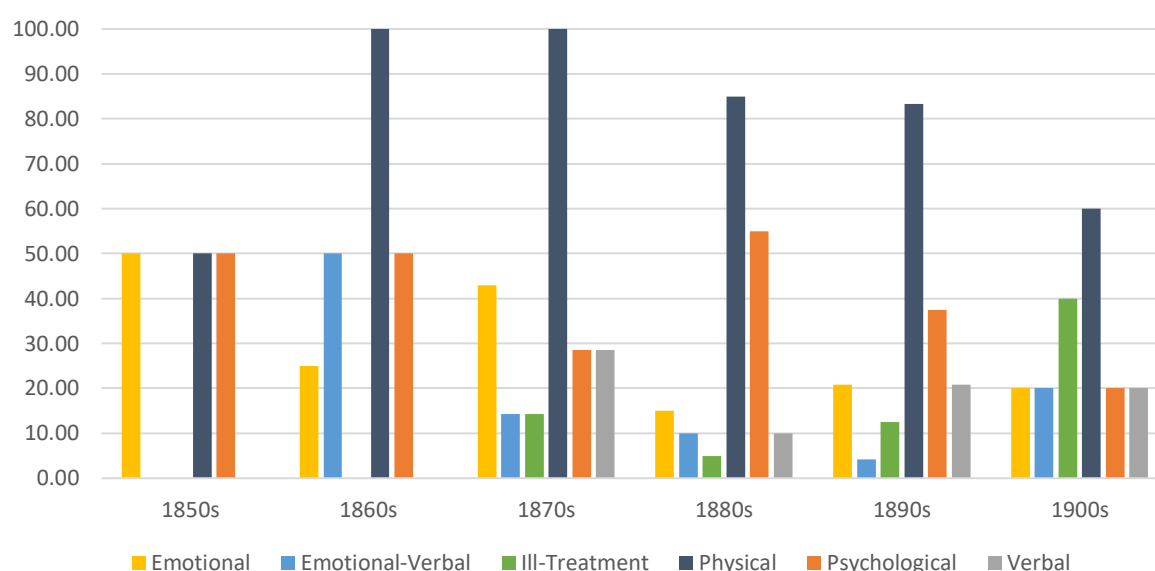


Figure 8.6 Behaviour categories reported in incidents in the SepDB that resulted in help in the form of ‘intervention’ by decade

²⁰ Incidents that resulted in a form of help could be based on multiple behaviour types and categories, the data shows that in 80.3% of separation cases that involved a report of ‘intervention’, that report was linked to at least one incident that involved physical cruelty, within individual cases there may have been multiple incidences of physical cruelty that resulted in intervention.

²¹ Additional behaviour categories were present in incidents that led to intervention, but only those reported in at least 10 per cent of the 66 SepDB cases that reported intervention are displayed in Figure 7.6 and Figure 7.7.

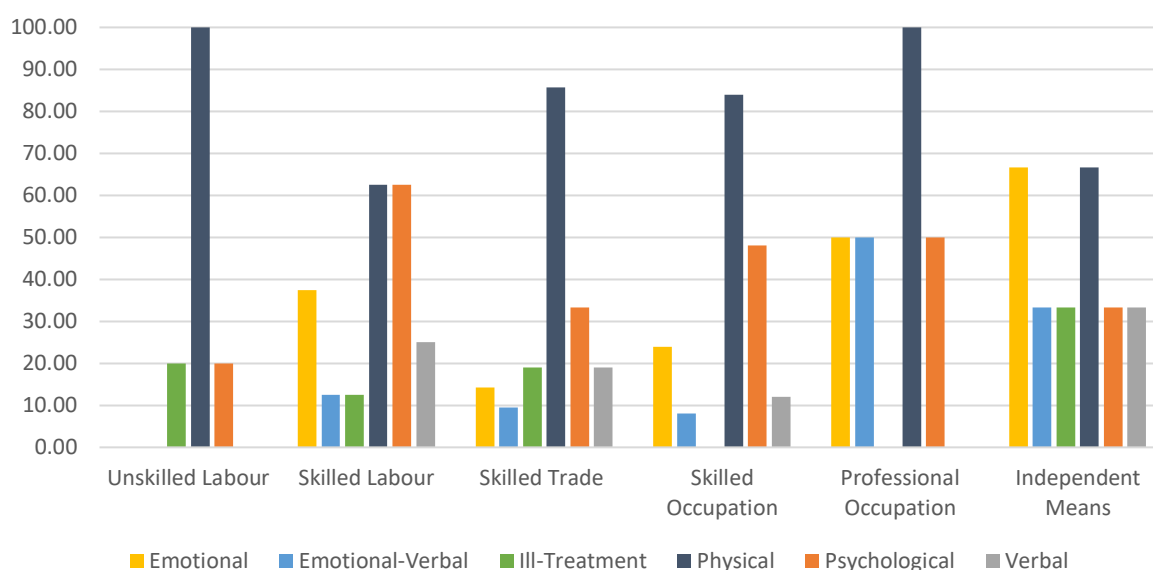


Figure 8.7 Behaviour categories reported in incidents in the SepDB that resulted in help in the form of 'intervention' by husband's occupation category

In the CCDB and DivDB, the rates of reporting were incredibly low. Just 12 of the 486 criminal court cases mentioned interventions and only 3 divorces (6 per cent of the sample) reported interventions. The reason for the small rate of intervention in the CCDB can be explained in part by the restricted space available to newspaper editors, which would have limited reports of criminal court trials to only the most important details of the cases. As such, the fact that a neighbour had calmed down an abusive spouse, and prevented further cruelty, could easily be lost.

To try to overcome this limitation, incidents where the defendant was accused of assaulting more than one victim but no explicit intervention was mentioned, were tagged in the database.²² It was suspected that these incidents could have been examples of people being injured in the process of intervening to defend victim. In 16.67 per cent of separation cases that reported intervention it was also reported that the intervener was injured while intervening. The rate of explicit intervention injury was even higher amongst the criminal court cases: it occurred in 9 of the 12 cases sampled (75 per cent). By intervening, the helper clearly risked being injured. There were a further 38 cases in the CCDB that made no mention of intervention but involved the assault of a second victim. We cannot be certain that these second victims

²² The tag used was 'multi-victims'.

were intervening on behalf of the spouse being assaulted. It is also plausible that the defendant intended to assault both their spouse and the other party equally, or that the defendant intended to assault the other person and injured their spouse when the spouse intervened. However, given the rate of injuries during intervention, it is plausible that some of these 38 cases would have been the result of a person intervening in spousal abuse, rather than the abusive spouse simply choosing to assault their husband or wife at the same time as another person.

The distribution of cases – with regards to occupations and time period – is more aligned to the pattern set by interventions in the SepDB when the ‘multi-victim’ incidents are counted alongside explicit interventions in the CCDB. There were examples of explicit intervention plus ‘multi-victim’ incidents from every decade of the period, and all the occupation categories except armed forces. Overall, this would suggest that intervention potentially occurred in at least 50 of the 486 cases, or 10.29 percent.

8.2.1 Family

Approximately a quarter of separations referenced family members intervening, and it was increasingly reported across the century. The majority of cases came from the skilled occupation and skilled trade categories, with professional occupation, independent means, and unskilled labour following closely behind. Intervention by family members was reported least in the skilled labour category, where just 7.39 per cent of cases mentioned it. In the CCDB, eight of the 486 cases referenced intervention by a family member; this was the largest sub-category of interveners in the CCDB. The phenomenon was reported at least once a decade from the 1860s through to 1890s, but in terms of class it was restricted to the cases where the husband’s occupation was unknown and the lower income categories of unskilled labour and skilled labour. Just two of the fifty cases of divorce sampled in the DivDB cited a member of the victim’s family intervening, and the cases were heard in the 1890s.

Two thirds of the behaviours that inspired family members to intervene on behalf of victims were physical in nature. On 16 September 1865 James Crighton pulled his wife from bed while she slept and began to assault her. His wife’s mother, whose name was not given, intervened “less murder should be committed” and she was also attacked. When the case was heard at the Central Police Court two days later, Mrs Crighton was injured to such an extent that she was unable to hold up her hand to take the oath.²³ The extent of Mrs Crighton’s injuries,

²³ *Glasgow Herald*, 19th September 1865.

coupled with Mrs Crighton's mother's fear that her daughter would be murdered in the attack, show the severity with which James attacked his wife and that this was what warranted the mother's intervention.

Intervention injuries like those of Mrs Crighton's mother were not uncommon. On the morning of 28 July 1889 ship master Peter Fraser assaulted his wife Janet Sinclair. He repeatedly struck her and he threatened to put the marlin spike that he had in his hand through her. Peter was only stopped from stabbing his wife by Janet's brother-in-law. Although he protected Janet's life, her brother-in-law had his arm severely bitten in the process.²⁴

Family members who intervened did not have to physically put themselves in between the abuser and the victim. Margaret Turnbull found her father James attacking her mother, Bridget Burns, in the family's home at 8 Fraser Street, Bridgeton on 30 March 1879. Margaret was 15 years old when she saw her father beating her mother with a hammer and saying that "he would kill [her]... and put her behind the fire."²⁵ Margaret recognised that as a 15 year old girl she had little chance of physically stopping her armed father from attacking her mother, so she instead convinced him that there was a customer in his shop who needed attention. The lie worked, and Margaret was able to stop James assaulting Bridget any further.

A family member might also intervene by threatening to go for the police. William Walker was a fish dealer by trade, but in the 1880s he was living with his wife Margaret Duncan at the inn in Saltcoats managed by Margaret's father. One day, William began to assault Margaret in their room. Margaret escaped the bedroom, but William caught hold of her again and they were caught in a struggle at the top of the stairs. William was trying to put Margaret over the bannister when Margaret's sister Mary Ferguson responded to Margaret's screams for help. Mary, like Margaret Turnbull, saw that there was nothing she could physically do to stop William and instead she threatened to go for the police. Seeking the help of someone with more authority did not always guarantee that the intervener would not be injured though. On the night of 19 September 1896, ship fireman Francis McGuire pulled his wife from bed by her hair and then punched her. The couple's daughter Mary became aware of the attack and ran for the police. Unfortunately, Francis realised this, ran after her and struck her too.²⁶

When a family member intervened by informing someone in a position of authority about what was taking place, that person was not always a policeman. In December 1899 Jessie Murray had been working with her friend Mrs McCulloch in the confectionary shop she ran at

²⁴ NRS, CS243/2356, Summons.

²⁵ NRS, CS46/1891/11/37, Proofs.

²⁶ *Glasgow Herald*, 22nd September 1896.

East Milton Street, in the Cowcaddens area of Glasgow. Jessie's husband James Mitchell, who was a plumber by trade, came into the shop and began to demand money for alcohol. James had made to strike Jessie, but he had been stopped by Mrs McCulloch's intervention. The incident caused Jessie to suffer severe nervous shock and she spent the next two months bed bound while recovering. It was during that recovery time that Jessie's sister had to intervene. James continued to treat Jessie violently while she was recuperating. Jessie's sister considered James' behaviour at this time to be unreasonable. To stop it, Jessie's sister spoke with Dr Longmuir who had been treating Jessie. Dr Longmuir agreed with Jessie's sister and he banned James from entering the house until Jessie was well again.²⁷ Jessie's sister recognised that while she did not have the power to exclude James from the home, the doctor did.

Older victims, and widows with children from former marriages, could also rely on their grown-up children to help them during attacks. On the night of 11 November 1895, Thomas Robertson physically assaulted his wife Jessie Donaldson, in their home at 24 Stewartville Street, Glasgow. The attack – which left Jessie bruised and with bleeding arms – was cut short when her son from her first marriage, Willie Scotland, pulled Thomas off her. Willie was 17 or 18 years old at the time of the attack, and an apprentice engineer. Thomas was a ship carpenter, but he was 60 years old. Willie's age and physical ability enabled him to protect his mother against Thomas' attack in a way that younger or weaker children could not have done.²⁸

Younger children could still intervene to try to protect their parents though. Younger children often sought the intervention of a person of greater authority or physical strength. From the late 1870s, Catherine Bruce and her husband George Hunter lived in the middle-class area of Hillhead in Glasgow. George had been a school master in Kelso, in the east of the Scottish Borders, and the family had moved to the city when he had retired. On 20 October 1882, among other things, George punched Catherine. Their fourteen-year-old daughter Elizabeth acted to protect her mother by going to the house of their neighbour Mr Thomson where she found one of his servants, Margaret Morrison, who came to stop the attack.²⁹

Overall, interventions were usually short-term solutions that put a stop to specific incidents. There was one case where the family member's intervention was more long-term though. Potato merchant John Gibson's behaviour was described as "outrageous" in April

²⁷ NRS, CS46/1900/12/108, Summons.

²⁸ NRS, CS46/1896/11/82, Summons.

²⁹ NRS, CS246/900, Summons.

1880.³⁰ John's wife, Jessie Findlay, had just given birth to the couple's third child, but John was going about using foul language and pulling Jessie around by her hair.³¹ Jessie's sister's husband, a Mr Earl, stepped in and took John away from Glasgow, to Barrow-in-Furness in the North of England for some time. The Summons does not give details about how long John stayed in England for, but he was certainly back and behaving cruelly again by September 1880. By taking John to England, it was possible that the family hoped to give him space to calm down and remember his duties and to give Jessie space to recover after childbirth, free from her husband's abuse. This period of what was essentially a trial separation, certainly had a lasting effect though. There was a spout of incidents of unreasonable behaviour between 8-14 September 1880. On 14 September 1880, Jessie left John and quickly raised an action of separation and aliment. It would seem that during the summer of 1880, Jessie recognised that she only needed economic support from John and that she could run the rest of the household and raise their children herself.

8.2.2 Neighbours

One in five separation cases made mention of neighbours intervening to protect victims of marital cruelty. While intervention by neighbours was not mentioned at all in the cases brought during the 1840s or 1860s, the trend was one of growth across the century. In the 1850s, 16.67 per cent of cases referenced an incident of a neighbour intervening, and by the 1900s the rate was up to 42.9 percent. Neighbours were more likely to have intervened in lower income cases than wealthy ones. Around 40 per cent of cases from the unskilled and skilled labour categories included mention of intervention by neighbours, compared to between 10 and 15 per cent in the skilled and professional occupation categories and no cases in the independent means category. Two of the sampled divorce cases featured neighbours intervening in incidents of marital cruelty. Both cases came from the 1890s and the occupations of the husbands reflected the same pattern identified in separations cases: one husband was from the skilled labour category and the other, the skilled trades category. In the CCDB there was just one explicitly reported example of intervention by a neighbour, and one more incident where a neighbour was also the victim of a cruel spouse. The explicit intervention by a neighbour was mentioned

³⁰ NRS, CS243/2750, Summons.

³¹ For more information on the relationship between pregnancy and marital cruelty, see Ashley Dee, 'Reconnecting Reproduction with Histories of Marital Cruelty in Victorian Glasgow,' *Gender & History* (forthcoming, October 2020).

in a case brought against a husband from the unskilled labour category in the 1860s, while the incident that involved a neighbour as a victim alongside the spouse was brought against a husband from the skilled trade category in the 1890s.

As with family members, neighbours regularly intervened by putting themselves in between the victim and their abuser. William McIntyre, who was a gardener, “wickedly and cruelly” attacked his wife Margaret Anderson on 10 March 1857. In her Summons, Margaret alleged that the attack could have ended in William murdering her if he had not been stopped by multiple neighbours who intervened.³²

Sometimes a neighbour had to act alone and ran the risk of being injured themselves. Andrew Neilson attacked his wife Grace Wales on 13 June 1862. Unusually, this attack did not take place in their own home on the High Street in Lanark, but in that of their neighbour Marion Davie. When Marion intervened to try to stop the attack, she too was struck.³³ The other criminal court case that appears to reveal a neighbour being injured while intervening took place around Hogmanay 1895. At the couples’ home on Adelaide Street, Gourrock, Michael McKee violently assaulted his wife. When the case appeared in the Gourrock Police Court, Michael was also charged with having assaulted a “neighbour woman”.³⁴ Given the regularity with which neighbours were injured during interventions, it is logical to see this as an example of a neighbour intervening and being injured in her efforts to help.

On other occasions neighbours sought the help of family members with intervention. One day, towards the end of August 1894, James McInnes locked the door to his family home at 66 Cranston Street, Glasgow. He then proceeded to physically attack his wife Marion Gray. Marion was heard screaming by one of her neighbours, who was not named in the case. That neighbour, realising they were unable to open the door, went to the home of Marion’s father and informed him of what was happening. Marion’s brother John Gray then returned to 66 Cranston Street with Marion’s neighbour. John broke down the door to the McInnes household and stopped James’ attack.³⁵ While neighbours were well positioned to intervene in attacks, they sometimes lacked the authority to do whatever it took to protect the victim, whereas this was less true for family members. The opportunity for neighbours to intervene was not entirely diminished by class. While James and Marion were in the unskilled labour category, as the case of Catherine Bruce against George Hunter, mentioned below, makes clear, even victims

³² NRS, CS228/Mc/18/46, Summons.

³³ *Glasgow Herald*, 17th June 1862.

³⁴ *Glasgow Herald*, 3rd January 1896.

³⁵ NRS, CS46/1899/4/14, Proofs.

from the professional occupation category could rely on their neighbours to overhear incidents and come to their aid.³⁶

Neighbours might also collectively intervene by going for the police. This was exactly what the neighbours of Caroline King Brown and John Noble Martin did in November 1892. John, who was a police constable in Glasgow's central district, had come home incredibly drunk. The neighbours more than likely heard him arriving home and were aware that he was drunk. He began to ill-use his wife, and the neighbours overheard this too. The police were sent for and John served 14 days' imprisonment for his behaviour.³⁷

Neighbours who entered the family home of a couple to intervene in an incident were most likely to be female. In the SepDB, when a neighbour, or multiple neighbours of the same sex, crossed the threshold of a couple's home to intervene, they were female two thirds of the time. In the CCDB both examples of a neighbour intervening in an incident that took place inside the couple's home, the intervening neighbour was female.³⁸

Interventions were judgement calls in themselves, but in some cases the neighbours appeared as witnesses for the victims and were able to more explicitly convey their opinions on the marital cruelty they witnessed. During the separation trial of Margaret Downie against Peter Williams, their former neighbour, Janet Harvey, appeared on behalf of Margaret. Janet told of an incident that had taken place on a Saturday in 1879. She testified:

I heard a noise and went upstairs and spoke to Mrs Hay. The noise I heard was like cries of distress. Q. And struggling? A. Yes. Q. Were the children crying also? A. Yes. I rang Mrs Hay's bell and said to her, 'were we to live in this land and hear this woman murdered?'³⁹

Janet and Mrs Hay then went to the couple's door and stopped the attack. Janet regularly helped Margaret, both by intervening and by providing refuge, so she was well aware of the cruel behaviour Margaret suffered at the hands of her husband. As the tone of Janet's voice is lost in the written words we cannot be sure whether Janet honestly believed that the attack sounded so violent that Margaret might imminently be murdered. It is also plausible that these were the hyperbolic words of an exasperated woman who, yet again, would have to risk her own well-being to stop a dangerous man from hurting her neighbour and friend.

³⁶ NRS, CS246/900, Summons.

³⁷ NRS, CS46/1899/8/15, Proofs.

³⁸ *Glasgow Herald*, 17th June 1862.

³⁹ She was another neighbour at the time, but by the date of the trial she was reported to be "up the Mediterranean".

During the case of Catherine Bruce against George Hunter, a neighbour testified to one of the incidents that took place in their Hillhead home on the 28 October 1882. Across the hall from Catherine and George, lived civil engineer and architect Alexander Thomson. Late in the evening on 28 October, Alexander's servants had heard George when he attacked Catherine again. The servants, one of whom was Margaret Morrison, told Alexander of what they could hear. Alexander himself stood by the front door to his home for a few moments and agreed he too could hear George behaving cruelly, and so he opened his door. At the same time, George had opened his front door. Alexander reported that Catherine appeared to be in "great distress", and that George was ordering her to "leave this home forever". Alexander took Catherine into his home, but that was still not the end of things. George began to vigorously knock on Alexander's door. At this point in his testimony, Alexander conveyed his own opinions to the court when he repeated what he had said to George at the time, "I said that this was disgraceful conduct, and that I would go for a policeman." Alexander went, accompanied by one of his servants, in search for a policeman but they were unable to find one and the incident was never reported.⁴⁰

8.2.3 Servants

One of the remaining significant groups of interveners in the SepDB, who did not appear in either the CCDB or DivDB, were servants. Ten of the 122 separation cases mentioned intervention by household servants. Proportionally, it was most commonly reported by the wealthiest with 25 per cent of those of independent means and 28.6 of the professional occupation categories reporting a servant having intervened. While those in the skilled labour category reported this phenomenon in 15.4 per cent of cases, just 5.88 per cent of skilled occupation category couples, and 3.03 per cent of skilled trade couples reported it. In real terms though, no more than three cases per occupation category reported servants intervening. As might be expected given the lack of disposable income, no cases at all from the unskilled labour category reported household servants intervening.

The separation case of Lady Annie Green against Baronet Hew Crawford Pollok, brought in 1873, featured numerous examples of servants intervening to protect Annie from Hew's cruelty. On the morning of the 22 August 1872, Hew had been driving a dog-cart dangerously fast and it had overturned. Annie's ankle had been sprained in the accident. That

⁴⁰ NRS, CS246/900, Proofs.

evening, Hew had gone into Annie's bedroom and dismissed the neighbour (Mrs Pollok) and maid who were sitting with her. He then locked the door to keep them out, and assaulted Annie. Next, Annie left the room and went to the dining room, where the neighbour Mrs Pollok was waiting with her husband, the servants, and Captain Anderson (a friend of Hew's who happened to be visiting). The footman Frederick Stanton and Captain Anderson began to help Annie to another room when Hew grabbed her back and dragged her to his bedroom. There Hew, "threw her on the bed, holding her down by the throat." When Annie managed to get away a second time, servants carried her to the porter's lodge, where she remained all night.⁴¹

While this example shows household servants, a neighbour, and a friend all intervening to help a victim of marital cruelty, it also describes them *not* intervening. The maid and Mrs Pollok never enlisted the help of Captain Anderson during the first assault. Then, Hew was able to take Annie to his bedroom and assault her again without being stopped. There are two possible reasons for the witnesses' hesitance: first, that Hew's status made those around him refrain from criticising his behaviour, though they were still sympathetic enough to help as soon as they felt it was appropriate; and second, that these assaults were sexual as well as physical in nature. After both incidents Hew allowed Annie, with her sprained ankle, to walk away without instantly chasing after her.

Servants at other levels of society also intervened in incidents. Margaret Hislop was a servant in the household of George Hunter and Catherine Bruce. On 28 October 1882, when Margaret heard George threaten to put Catherine on top of the range and then watched him lift a hatchet and threaten her with that too, she went for a police officer. Unfortunately for Catherine, when the policeman arrived George accused Catherine of stealing from him and the assault was never discussed, which left George open to continue his cruelty later.⁴²

While it was primarily physical violence that warranted intervention, there was an example of a servant who intervened to prevent a victim's property from being destroyed. Catherine Taylor was Margaret Downie and Peter Williams' servant in May 1879. At some time during that month, Peter had thrown Margaret's cap and bonnet in the fire, but Catherine had been able to save the bonnet from being burnt. The position of a servant as an outsider living inside the household was particularly prevalent in this case. Catherine would later leave the Williams' service after Peter ordered that no one who would be a witness against him should be in his household.⁴³

⁴¹ NRS, CS46/1874/7/73, Summons.

⁴² NRS, CS246/900, Summons.

⁴³ NRS, CS46/1881/3/14, Proofs.

8.2.4 Officials

There were three groups of officials who were reported to have intervened in separation cases: doctors or nurses, religious figures, and inspectors of the poor. While another group of official players – the police – were also mentioned in all three databases, the role of police officers will receive focused attention later in Chapter Nine. Medical figures were reported to have intervened in seven separation cases. Religious figures and inspectors of the poor were recorded as intervening in two cases each.

Dr Alexander Logie tried to help Jane Wilson with her alcoholic husband James Pollok in the summer of 1881. James had been considerably drunk in July 1881 when he unsheathed a sword and ran at Jane and a dressmaker called Ms McCall, who had been visiting. James had threatened to cut Jane's head off and Dr Logie had to be summoned. Dr Logie spoke with James and they came to the agreement that James should enter the Gartnavel Royal Asylum.⁴⁴ As a doctor, Alexander Logie was more empowered to help Jane tackle James' alcoholism than ordinary family or neighbours. In this case James' time in the asylum did little to subdue his drinking habits, but it did allow Jane a break from his dangerous behaviour.

Advising treatment for alcoholism or making orders to improve the convalescence of a victim – as Dr Longmuir did at the request of Jessie Murray's sister – were the ways in which a doctor might be able to help a victim of marital cruelty in their normal line of duty. A doctor's ability to help was conditional on the victim being willing to ask for help. In October 1899, just four days after she had given birth, Sarah Lynagh was physically attacked by her husband John McCaffrey. Sarah alleged that during the attack John had tried to strangle her, but she had no witnesses to the attack itself and she had only shown their servant the bruises. In cross-examination Sarah was asked why the doctor had not noticed any marks, and her response was very telling:

The doctor noticed I was very much excited, and asked me what was the matter... I did not show the doctor the marks, or tell him what happened, because I was ashamed to let anyone know that there was things going on... The doctor did not see the marks, because I had my night gown on, and it was pinned up to the neck.⁴⁵

⁴⁴ NRS, CS46/1881/12/48, Summons.

⁴⁵ NRS, CS243/5192, Summons; NRS, CS243/5192, Proofs.

Sarah admitted that she was ashamed of the situation she found herself in, and this directly prevented her from asking for help from the doctor who could have acted in her defence.

Despite Foyster's findings that "[c]lergymen had long been consulted for advice", which were corroborated by Begiato (Bailey), there were only two cases where the help of a religious figure was acknowledged.⁴⁶ In both cases this intervention brought about a reconciliation. The first case was heard in 1882, and the second in 1901. The earlier case was that of Catherine Bruce against George Hunter. In September 1882, Catherine had been put out of the house by her husband (as she would be in October 1882 too). She reported that, like Sarah Lynagh, she had been anxious to avoid publicity, and that she wanted to be back with her children quickly. To facilitate a reconciliation under these circumstances, Catherine had gone to a clergyman. George had made a "faithful promise" to stop drinking so heavily, and to behave better, and so Catherine had returned.⁴⁷ Similarly, Sarah Lynagh only agreed to return to live with her husband John McCaffrey after he promised, in the presence of Father De Backer who had married them less than two years before, that he would behave better.⁴⁸

The case that involved the intervention of a Poor Board official was similar in nature. Thomas Daly was threatened with prison by the Edinburgh Parochial board if he did not pay his wife aliment. In the late 1890s, his wife, Annie Wallace had gone to live in Edinburgh with her sister and aunt after her husband's behaviour made it too difficult to remain at home. After the threat of imprisonment, Thomas began to pay Annie 10s a week.⁴⁹ In the early 1880s Archibald MacGregor had faced the same threat from an Inspector of the Poor. Archibald was still living with his wife Helen Bayne, but he was completely neglecting her. The Inspector of the Poor intervened in their case, and threatened Archibald, after Helen applied to the parish for relief. The need to apply for relief, despite having a husband who worked as a shop assistant, was obviously very shameful. Helen explained in her Summons that she only did it on the advice on those in her community.⁵⁰

8.2.5 Friends

As with family members and officials, friends were not always present. Just five of the 122 separation cases mentioned friends intervening. As with intervention generally, physical

⁴⁶ Foyster, *Marital Violence*, 2005, 206; Bailey, *Unquiet Lives*, 32.

⁴⁷ NRS, CS246/900, Summons.

⁴⁸ NRS, CS243/5192, Summons.

⁴⁹ NRS, CS46/1898/5/44, Summons.

⁵⁰ NRS, CS46/1886/3/11, Summons.

behaviours were the primary reason a friend might intervene. This was the case when Susan Thomson stopped John Fleming from attacking his wife Helen Fleming with a baker's board in his shop.⁵¹ As a friend, Susan was not a permanent member of the household, always on hand to help Helen. Interventions by friends were rare because they were only possible when the incident took place in their presence. The rarity of friends intervening, as with officials, was potentially to do with the shame victims felt in admitting their situation to those outside their immediate family, and neighbours.

8.3 Refuge

When a victim needed a place to stay, either in the short-term to hide and let their abuser calm down, or on a longer-term basis, this was referred to in the legal documents as refuge. In the SepDB, 46 of the 122 cases contained mention of refuge, 37.7 per cent. Refuge was the most commonly reported form of help in the DivDB, where 18 per cent, or nine, of the fifty cases, mentioned victims being provided with refuge. Again, the limited space for peripheral details of criminal cases meant that there were only 10 reports of refuge in the CCDB.

At the beginning of the period, when the number of separation cases was still small, the rate of reporting fluctuated greatly (Figure 8.8). Although, from the 1870s through the 1900s the rate stabilised around 40 per cent. In both the DivDB and CCDB, the cases that mentioned help in the form of refuge were clustered around the end of the nineteenth century. As Figure 8.9 shows, although present in sometimes very small numbers, refuge was present in the majority of occupation categories represented in each of the three databases.

⁵¹ NRS, CS46/1879/11/12, Summons. Fleming was Helen's married and maiden name. A baker's board is a larger, heavier chopping board with a lip that secures it on the worktop to prevent it from slipping while kneading dough.

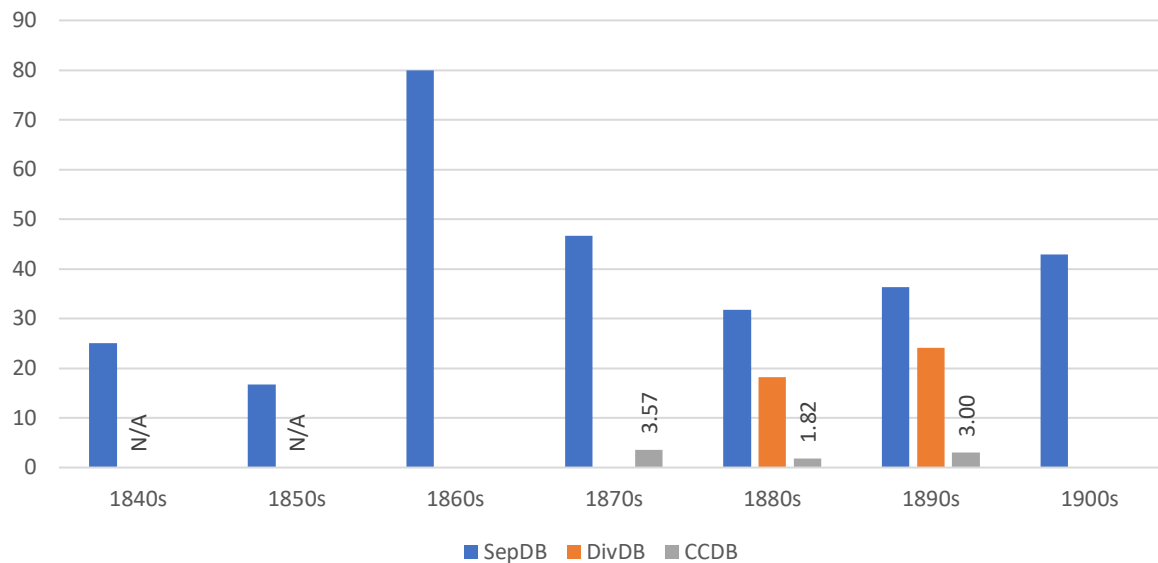


Figure 8.8 Percentage of cases that reported help in the form of 'refuge' by decade



Figure 8.9 Percentage of cases that reported help in the form of 'refuge' by husband's occupation category

In the SepDB, victims primarily sought refuge because they had chosen to leave their spouse or had been forced to because they were put out the family home. This was the case in 31 of the 46 separation cases where the victim reported having sought refuge during their

marriage (67.4 per cent). Victims were prompted to seek refuge after physical cruelty in half of the separation cases that included incidences of refuge.

8.3.1 Family

In the SepDB and DivDB it was mainly family members who provided refuge, and there were some examples of family members providing refuge in the CCDB too. In the SepDB there were examples of family members providing victims with refuge from the 1850s onwards. While the number of cases grew in real terms across the decades, proportionally the rate of reports dropped significantly. In terms of class, reporting was proportionally most common amongst the skilled labour category, where 38 per cent of cases mentioned refuge being provided by family members. The other occupation categories all had reporting rates of between 20 and 30 per cent, except for the unskilled labour category, where it was only mentioned in 10 per cent of cases. In the DivDB, 16 per cent of sampled cases contained reference to a family member providing refuge. The phenomenon was only reported in the 1880s and 1890s, though it featured in cases from all occupation categories with the exception of the unskilled labour category.

A couple's wealth did not necessarily determine whether they would need to rely on their family members for refuge. Florence Gibbs was married to Col. James Stevenson in 1885. James was independently wealthy but remained in the armed forces throughout his life and was appointed aide-de-camp to Queen Victoria in 1896. In December 1886, Florence went to live with her parents in Sussex, and she claimed that James had failed to provide her with a suitable residence. This was not a short-term solution. James would visit his wife in Sussex, sometimes even staying for a few months at a time. At least two of their three children were conceived while Florence was living at her parent's home. This situation continued until May 1892 when Florence and the three children went to live at James' Braidwood estate in South Lanarkshire.⁵² By March 1893 Florence was again being given refuge by her parents, this time because she was in such ill-health due to the treatment she had received from James.⁵³

Ordinarily, couples resided closer to their families. This allowed family members to be the first choice for many victims, like Mary Donald, who were trying to escape a physical attack. Mary was able to go to her mother's house to get away from an attack by her husband

⁵² NRS, CS243/6810, Summons.

⁵³ NRS, CS243/6810, Summons.

James Strang.⁵⁴ Where the time of an incident that led a victim to seek refuge is known, it was most likely to have taken place in the evening or through the night, so the place of refuge being close by was usually essential. It was through the night one evening in December 1859 that Mary Glenton was “obliged to escape with the child, barefoot and in her nightdress, to her father-in-law’s residence at the Green for protection”.⁵⁵ The proximity of Mary’s father-in-law, Mr Rankin, made it possible for Mary to escape the physical abuse she received that evening.

Refuge was not just provided in emergency situations related to physical abuse, or threats of such; it was also required after victims were put out or banned from their home. Mary Ann Dimmock was put out of the house by her husband Alexander Jack in May 1879. Mary Ann had to go to her mother’s house at Airdrie to live.⁵⁶ Economic neglect could also lead a victim to seek refuge with a family member. In 1882, Catherine Hamilton’s husband Robert Haddow lost his situation and the couple, and their two children, were left homeless. Catherine took the children and went to live with her father in Uddingston. In the Summons for her divorce in 1895, Catherine reported that she was often left without a home by her husband and so she routinely had to take the children and go to her father’s.⁵⁷

As well as parents, siblings provided refuge for victims. Whether victims were more likely to go to a sibling or a parent for longer-term refuge was dependent on many factors, but their occupation category seems to have played a role. For the four months which followed Christmas 1897, Ellen Haughian lived with her sister Anne and her brother-in-law Peter McAlister. Ellen’s husband John Bradley had assaulted her on 25 December 1897 so badly that she was unable to lift her arm for some time afterwards.⁵⁸ The separation case of Ellen and John made no mention of Ellen’s parents. Ellen was around 35 years old when this incident happened, and her sister Anne and brother-in-law Peter would likely have been around the same age. John Bradley was a labourer at a steelworks in the Glasgow area, placing him in the unskilled labour occupation category. Peter McAlister was recorded as a “aerated water manufacturer”. While the documents do not specify which role Peter played in the manufacturing process, he was living in Camlachie, in the east end of Glasgow, just like John Bradley, so it would be unlikely that he would have been more than a skilled labourer or tradesman. Even if Ellen’s parents were still living, as middle-aged people, Anne and Peter

⁵⁴ NRS, CS243/1763, Summons.

⁵⁵ NRS, CS46/1864/3/134, Summons.

⁵⁶ NRS, CS46/1880/8/1, Summons.

⁵⁷ NRS, CS46/1895/10/16, Summons.

⁵⁸ NRS, CS46/1899/10/16, Summons.

would likely have been able to produce a more significant income than them. Consequently, Anne and Peter would have been able to accommodate an extra member in the household.

At higher levels of society, the inability of elderly parents to produce income is less significant. Beyond the working- and lower-middle-classes, there was less need to be able-bodied to create enough income to support another person. This explains why those in the independent means category, such as Florence Gibbs, were able to stay with elderly parents for extended periods of time. When a family member provided refuge on a longer-term basis they were the parent(s) 50 per cent of the time in separations cases and 87.5 per cent of the time in divorce cases; they were only siblings in 32.35 per cent of separations cases and 22.5 per cent of divorce cases (the remaining 17.65 per cent share from the SepDB was split between grown-up children, and more distant family members). However, when this issue is considered across the different occupation categories, the story was more nuanced. At the independent means level, in all four incidents of family refuge parents were the providers. In the unskilled labour group, siblings provided refuge in three of the four examples, leaving just one example of a parent providing refuge.⁵⁹ There were some anomalies: three of the four professional occupation category incidents of family refuge were with siblings rather than parents, while six of the seven skilled trade and two of the three skilled labour category incidents relied on parents rather than siblings. However, closer analysis of the larger skilled occupation category would also suggest that the differences were class based. Using the data collected on the husbands' incomes in the nine SepDB incidents of family refuge at the skilled occupation level, the class difference between the five skilled occupation category wives who went to their parents and the four who went to their siblings remains. Of the wives who went to their siblings, the husband's income was twice given as around £300 per annum and once as £104 per annum (in one case it was not provided). Of the wives who went to their parents, the husband's income was once given as £300, but then once given as £600 per annum, and then £650 per annum (it was twice not provided, though on one of these occasions it was described as "sufficient"⁶⁰).

Older victims with grown-up children had the option of going to them for refuge. This was only observed in the SepDB cases, and only in two cases, in 1876 and 1891. Both were cases from the skilled occupation category and the children had their own homes where they could accommodate their mothers.⁶¹ There was one other case from the SepDB where grown-

⁵⁹ The unskilled labour case of a parent providing refuge was the case of Sarah Louise Pollok against James Wilson. The anomaly can be explained by Sarah's parents being more aligned with the independent means category.

⁶⁰ NRS, CS46/1897/11/105, Summons.

⁶¹ NRS, CS241/3121, Summons; NRS, CS46/1876/7/28, Summons.

up children were indirectly able to provide their mother with refuge. In August 1897, Donald Cameron was sentenced to 14 days' imprisonment for assaulting both his wife Catherine McKay and one of the couples' seven children. While Donald – who ordinarily earned a wage as a mason – was in prison, Catherine took a house for herself and the children. Catherine was able to do this because she took the house in the name of one of the couples' sons (four of whom were older than 18).⁶² With four adult male children, Catherine was able to rely on their income to live independently from her cruel husband.

8.3.2 Neighbours

Neighbours were most likely to be recorded as having provided refuge in the CCDB. In eight of the ten criminal court cases that mentioned refuge it was provided by neighbours, possibly because the circumstances meant there was an urgent need that neighbours could best supply.⁶³ Examples of neighbours providing refuge were limited to the lower income households of skilled and unskilled labourers, and the unknown category. In the SepDB, neighbours provided refuge in 24 cases, and thus were almost just as likely as family members to take in victims. In the SepDB, all occupation categories except independent means had at least one report of neighbours providing victims with refuge. Reports were highest in the skilled labour category where 31 per cent of cases mentioned neighbours providing refuge. The remaining categories all reported this practice in 15 to 22 per cent of cases. There were only two incidences of neighbours providing refuge in the DivDB. One of the cases was from the skilled trade category while the other was from the professional occupation category. The limited number of cases makes tracking change over time difficult, but generally in the criminal court and separation cases a proportional decline in the rate of reporting can be observed.

Refuge was usually provided by neighbours after serious incidents of physical abuse, like when Margaret Cowan was assaulted “to the effusion of blood” by her husband John Currie. The assault took place on 3 January 1876 at the couple's family home at 111 New City Road, Glasgow. Margaret was able to run to the home of her neighbour Mary Campbell Watt for refuge.⁶⁴ On occasions like these, neighbours were best positioned to provide immediate care and refuge. However, abusers did sometimes follow their victims into their neighbour's

⁶² NRS, CS46/1898/11/126, Summons.

⁶³ See for example *Glasgow Herald*, 31st December 1895, where the victim was reported to have hid under a neighbour's bed.

⁶⁴ NRS, CS239/R/39/3, Summons.

house and continue to abuse them there. This was the case when Hugh Wylie brutally assaulted his wife Margaret Young in June 1895. Margaret ran to their neighbour Mrs Galloway's house to escape Hugh, but he followed her into Mrs Galloway's home and continued his physical and psychological abuse. On this occasion, Hugh was only stopped by Mrs Galloway threatening to go for the police.

While victims might rely on neighbours for refuge, this was usually a more short-term solution than it would be with family members. Susannah Roddick escaped to her neighbour's house one night in October 1876, after her husband William McKune, a bookkeeper, had come home incredibly drunk and his temper had become unbearable. Susannah only spent one night with the neighbour before moving on to spend a week with her brother.⁶⁵ In the CCDB, the length of refuge was only commented on in one of the eight occurrences when it was noted that the victim had remained with the neighbour for four days. It seems likely that the length of refuge was not commented on in other cases because it was shorter and so not noteworthy. In the SepDB 83.4 per cent of the 36 occurrences of refuge with a neighbour were short-term in nature and lasted less than two days.

The cases containing examples of refuge where the husbands had skilled occupations contained some exceptions to the rule. At this level, the threat of imminent danger could be enough to encourage a victim to seek refuge. In 1846, Agnes Crawford left her husband, a harbour manager called William Russell, because she felt her life was in imminent danger, and sought refuge with a neighbour. This case was also unusual because Agnes stayed with the neighbours for a longer time than most victims who sought refuge with a neighbour. Agnes was still residing with the couple later that year when she raised the separation case against her husband.⁶⁶ There were also reports of victims who were put out of, or banned from, their homes seeking refuge in the skilled occupation category too. Mary Rigg was put out of her home in Ardrossan, with her child and her servant, by her husband Alexander MacQueen in late October 1864. Mary was able to secure refuge in the home of a neighbour for the evening.⁶⁷

While Agnes Crawford was unusual for residing on a long-term basis with her neighbours, she was not the only person who sought more than one- or two-nights' refuge with their neighbour. Sometimes, as with Agnes Crawford, the situation became permanent for personal reasons that were not conveyed in the legal documents. On other occasions, the reason for the victim's lengthy refuge was more harrowing. On the 2 May 1877, wine and spirit

⁶⁵ NRS, CS46/1880/10/52, Summons.

⁶⁶ NRS, CS239/R/39/3, Summons.

⁶⁷ NRS, CS46/1865/7/147, Summons.

merchant David Phillips physically assaulted his wife Catherine O’Neil at their family home on Rothesay. The abuse had been so severe that Catherine had had to go to a neighbour’s house for refuge. Catherine ended up spending two months sheltering with the neighbours while she recuperated.⁶⁸

Refuge with a neighbour, even if it was often short-term, could also be a regular form of help. During her 1863 separation case, Mary Glenton reported that her husband, shipbuilder James Rankin, was a violent man. Mary explained James’ his violence “had become habitual” and she was forced to leave and take refuge with neighbours on several occasions.⁶⁹

8.3.3 Friends

The only other group of significance who were reported to have provided victims with refuge were friends. This form of help only featured in the SepDB, where it was reported in eight cases. One possible reason for the lower rate of help from friends could be that most victims had people closer to home that they could rely on. However, the distance between the family home and the residence of a friend could be beneficial too. Helen Bryson told of how, late in the evening of 1 January 1886 she had walked, in fear for her life, to Castlecary train station. Helen had sat in the station master’s office until the last train for Glasgow arrived. She took the train and went to her friend Ms Miller’s house, where she stayed for a week. At the time, Helen was living with her husband Robert Don, an inland revenue officer, in Bankier, Stirlingshire (the north-west-most point of the Greater Glasgow boundary). Helen reported seeking refuge with her neighbour on another occasion, so she did not make this more substantial journey because she could not rely on her neighbours. Instead it appears that on this New Year’s Day, Helen needed a more sustained interval from her husband’s behaviour.

8.3.4 One-Offs

The SepDB also involved one off examples of a servant, a lodger, and the police providing a victim with refuge, and of a servant attempting to provide refuge.⁷⁰ Mary Thomson had to seek refuge with the household servant to escape an attack by her husband Hugh Strain. Late on the

⁶⁸ NRS, CS243/57/49, Summons.

⁶⁹ NRS, CS46/1864/3/134, Summons.

⁷⁰ While discussion of the police has been limited to Chapter Nine, this was a one-off example that was not replicated in any other cases and so I’ve included it here.

evening of 10 December 1884, Hugh had been cruelly treating Mary while they were in bed. Hugh had forced his son from his first marriage to sleep in their bed with them, he would not allow Mary any of the bedcovers, he banged Mary's head against the wall causing her to faint. When Mary came around, Hugh was kicking her and telling her he wished he had a knife, so that he could "make her out". Mary crawled to the bedroom where their servant was sleeping and took refuge there while Hugh calmed down.⁷¹ Hugh proceeded to soak the bed with all the liquids that were in their bedroom, but for whatever reason, he did not follow Mary into their servant's room and continue to abuse her. This was the case when Amelia Galt tried to seek refuge with the household servant on the 18 February 1890. Amelia's husband Dr Thomas Dunlop had come home drunk that evening, he had ordered her about and had used vile language. Amelia had gone into the kitchen of their home at 9 Grafton Place with the intention of seeking refuge with the servant who was in there, but Thomas followed her and assaulted her.⁷²

One of the pursuers in the SepDB successfully found refuge in the bedroom of one of their lodgers. Annie Clark lived with her husband Andrew Rose on St George's Road in Glasgow. Andrew was a labourer and to supplement their income, Annie kept lodgers. In December 1891, Andrew physically assaulted Annie and caused her mouth and nose to bleed. Annie took their child and hid in the cupboard in the bedroom of one of their lodgers, a Ms Marshall.⁷³

Finally, Annie Wotherspoon was the only victim who sought refuge with the police. Annie was living in Belfast at the time with her husband John Forbes and their three children. At two o'clock in the morning, John had turned Annie and their three children out. Annie took the children and spent the night in the police office.⁷⁴ Although the family were living in Belfast, ordinarily they lived in Scotland, sometimes in Partick or Govan, but usually in Coatbridge. Sometime after they had moved to Govan in 1889, John had deserted Annie and the children. Annie had learnt that he had gone to Belfast and so she followed him there. They had only been reunited for three weeks before John put his wife and children out of the house. Annie would have had little time to make friends or build a relationship with her neighbours. Given that John had been trying to desert his family, it was unlikely that the couple knew

⁷¹ NRS, CS46/1885/12/50, Summons.

⁷² NRS, CS46/1890/7/161, Summons.

⁷³ NRS, CS46/1896/3/121, Summons.

⁷⁴ NRS, CS46/1898/1/48, Summons.

anyone in Belfast personally. For Annie, having been turned out of her home in the middle of the night, the police were her only source of refuge.

8.4 Relief

In the legal documents of divorce and separation, the term relief was usually associated with a person, or an official body, helping a victim of cruelty by giving them economic aid. There were also examples of people providing victims with goods or services rather than cash assistance, and this form of help is also included under the umbrella of relief in this chapter.

This was not a commonly reported form of help in CCDB or DivDB. From the newspaper reports of criminal court proceedings there was just one case of attempted relief, heard during the 1890s and involving a husband from the unskilled labour category. In the DivDB, relief was reported in just four cases that were all heard during the 1890s: one from the skilled occupation category, two from the skilled trade category, and one from the unskilled labour category.

In the SepDB, relief was mentioned in 19 of the 122 cases, or 15.6 per cent of the time. Proportionally, relief was mentioned most by the poorest people: 40 per cent of cases in the unskilled category and 30.8 per cent of cases in the skilled labour category (Figure 8.10). There were no cases from the professional occupation category that contained mention of relief, though the other three occupation categories were represented. Over time, as the number of cases brought increased, there was a slight decrease in the proportion of cases that mentioned relief from around 20 to 30 per cent before 1870, to 15 per cent or less in the 1880s and 1890s.

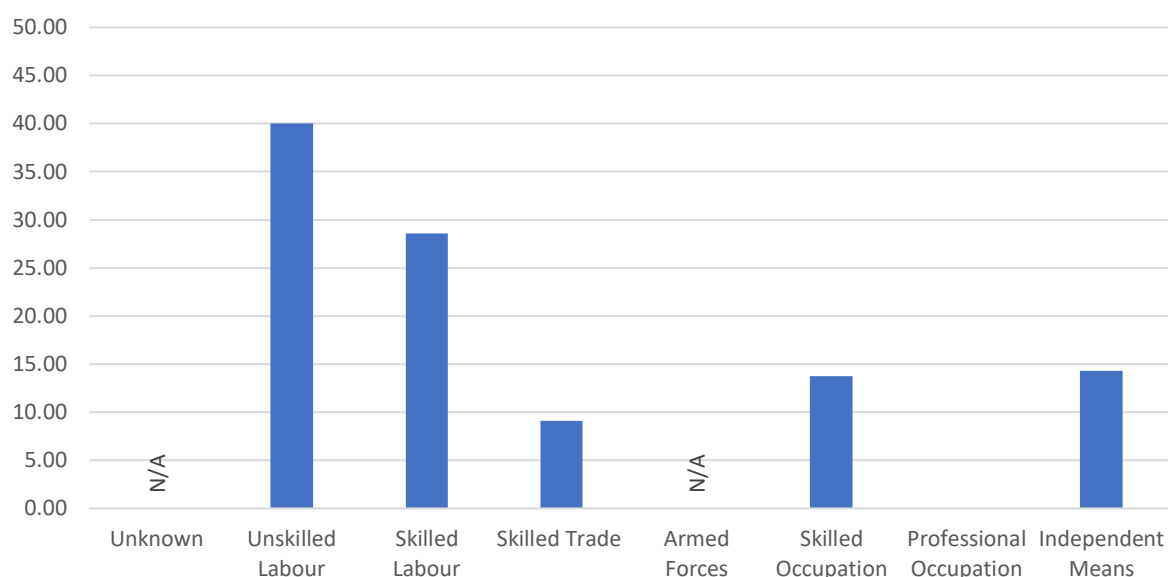


Figure 8.10 Percentage of separation cases that reported help in the form of 'relief' by husband's occupation category

8.4.1 Officially Sanctioned Relief

Despite being mentioned only once – in an unusual way – in the DivDB and not at all in the CCDB, officially sanctioned relief was the most commonly reported form of relief in the SepDB. This included both poor relief provided by the state, and occasions when a defender was ordered to provide aliment for his family after a claim was brought against him in a Small Debt Court.⁷⁵ This form of relief only appeared in cases brought from the 1880s onwards. Court ordered aliment was most prevalent amongst the unskilled labour category. Wives like Euphemia Lindsay, whose husband Robert Orr was a labourer employed at the Well Park Brewery on Duke Street, used small debt courts to obtain decrees for aliment. In July 1885 Robert was ordered to pay Euphemia £4.⁷⁶ Court ordered relief also appeared in the skilled labour and skilled occupation category, though at a lower rate. Immediately after leaving her husband in December 1888, Isabella McGill raised a small debt action. Isabella won her case and James Connolly, a foreman at the Hyde Park locomotive works in Springburn, had to pay an interim aliment for twenty weeks.⁷⁷ David Englander has found that engagement with the

⁷⁵ Wives could use the Small Debt Court to order their husbands to aliment them in the short term, without seeking a long-term CoS separation and aliment action.

⁷⁶ NRS, CS46/1886/12/154, Summons.

⁷⁷ NRS, CS46/1894/1/143, Summons.

Small Debt Court was “endemic” in Glasgow.⁷⁸ However, Englander and others who have studied these courts have approached the subject from the angle of labour history, meaning the use of the courts by wives to seek aliment is not fully understood.

A victim was awarded poor relief in three separation cases. In a fourth case the victim, whose husband had a skilled trade, applied for poor relief, but was denied. In May 1899, William Lennox had given his heavily pregnant wife Margaret MacPherson £1 and sent her to live with a friend for her confinement. He had told her that he did not want to see her back and said that the baby “might go to hell.” When Margaret applied for relief, she was denied. In the separation case she brought the following year she explained that she had been left reliant on charity, though it was not explained whether this was official charity or the help of friends and neighbours.⁷⁹ Two of the successful applications for poor relief were made in cases brought during the 1880s, one from each the skilled labour and skilled trade occupation categories, and a second skilled trade category case mentioned that the victim was supported by poor relief when it was brought in the 1890s.

One of the three DivDB cases featured court ordered relief. Like all the examples of people receiving help across the databases, the recipient was the wife; however, unlike all the other examples of help, in this case the wife was the defender in a divorce case. In 1899 Robert Young brought a divorce action against his wife Mary Ann Findlay on the grounds of her alleged adultery. Mary Ann and Robert had been living apart since May 1897, when Robert left Mary Ann with their four children and without allowing her any means of support. In October 1898 she successfully brought an aliment action against him in the Kilmarnock small debt court.⁸⁰ In her defence against the divorce suit Mary Ann denied the charges of adultery and portrayed Robert as a cruel husband. The Lord Ordinary found in her favour and she was assoilzied.

8.4.2 Family

Family were the second most reported providers of relief in the SepDB, and the primary providers of relief mentioned in the DivDB. Their financial help could be provided in an emergency. This was the case when Mrs Baker had to provide her daughter, Emmeline Baker, with relief by paying for her medical bills and treatments when she gave birth in July 1891.

⁷⁸ David Englander, “Wage Arrestment in Scotland,” *The Scottish Historical Review* 60, no. 169 (1981): 69.

⁷⁹ NRS, CS46/1900/11/24, Summons.

⁸⁰ NRS, CS46/1900/5/81, Defences.

Emmeline's husband Thomas Stewart was a house factor and so should have been able to cover the costs, but he refused. Thomas had even refused to go for a doctor when Emmeline went into labour, and she had to walk a mile to secure the services of a doctor herself.⁸¹ By stepping in and paying for the medical attention Emmeline needed, Mrs Baker signalled the danger of the immediate problem and her disappointment with her son-in-law's behaviour.

The helpers were evidently sympathetic to the victims' suffering, but they recognised that leaving the cruel marriage was not the victim's desire at that time. Elizabeth Russell was entirely dependent on her father for money during her short period she lived with her husband Duncan Campbell Paterson. Duncan was relatively poor for a landowner. As the daughter of a wealthy merchant and JP from Ireland, Elizabeth was used to a higher standard of living. Duncan refused Elizabeth an allowance and she was unable to visit friends because he did not have the means to run a carriage.⁸² Mary Ann Irving was also left dependent on her relatives for economic support during her marriage, but not because her husband was not wealthy. Mary Ann's husband William Steel was in a long-term emotional, if not also sexual, affair with the couple's domestic servant Euphemia Proctor. For years in their marriage, William had conducted all his communication with Mary Ann by giving messages or money to Euphemia to pass on to her. When Mary Ann insisted that Euphemia left the household in January 1875, rather than begin to communicate with his wife again, William stopped providing her with an allowance altogether. As a result, Mary Ann relied on her relatives for financial support during the last year that she resided with her husband.⁸³

Sarah Louise Pollock's mother lent her and her husband James Wilson a chapel cart, horse and harness. In September 1893 James tried to sell the items, and Sarah Louise complained of this in her Summons. Sarah Louise was the daughter of the landowner William Mather Pollok, of Lounsdale, but she had married the son of one of her father's tenants after loaning him money and then becoming pregnant by him. Her husband James was a milk van driver so, like Elizabeth Russell, her disposable income was considerably lower after marriage. While her mother had forced her into the marriage, she was trying to make it as comfortable as possible.⁸⁴ Sarah Lynagh was also heavily dependent on her family for financial relief and that relief again enabled Sarah to stay with her husband for longer. Sarah's husband John McCaffrey was a butcher and he decided in 1900 to move his family to Belfast. John spent

⁸¹ NRS, CS46/1897/7/79, Summons.

⁸² NRS, CS230/R/10/3, Summons.

⁸³ NRS, CS243/6557, Summons.

⁸⁴ NRS, CS46/1898/5/30, Summons.

much of the income he made from the butcher's shop on alcohol and Sarah's mother, Jessie, had to send Sarah money to support the family.⁸⁵ Sarah's family were also willing to enable her to leave her husband. In September 1900 after complaining of James' cruelty to her family, Sarah received the money to pay for her and her two young sons to return to Scotland.⁸⁶

8.4.3 Neighbours

The SepDB also mentioned neighbours providing relief in four cases. Annie Wallace's husband Thomas Daly was an insurance agent for the Presidential Insurance Company in Glasgow. During the separation trial in 1897, Annie reported that Thomas earned £2 a week. Annie also told of how she and their five children were entirely neglected after the birth of the youngest child in 1895. Thomas failed to provide the family with food or bedding, and he gave Annie no means of procuring these. Annie and the children were left "dependent on the charity of neighbours for the necessities of life." In March 1896, Thomas deserted his family, and Annie began her separation proceedings.⁸⁷

The kinds of relief that neighbours provided were more diverse than that given by family members. A female neighbour of Margaret MacPherson made her a poultice for her arm after her husband William Lennox physically attacked her in April 1895.⁸⁸ When, in May 1883, Thomas Mitchell broke the crutch his wife Jane Young used to walk, it was Jane's female neighbour by the name of Kenney who sourced her a new one.⁸⁹ While neighbours did not always have the economic means to completely support a victim, they could provide help in other ways to ease the victim's suffering.

8.4.4 Friends

In two cases in the SepDB, friends were reported to have paid for specific costs, rather than day-to-day financial relief. Duncan McDougall went to Canada on 4 October 1880 leaving his wife Jane McDougall to support herself and their only surviving child. In the same month, on

⁸⁵ NRS, CS243/5192, Proofs.

⁸⁶ NRS, CS243/5192, Summons.

⁸⁷ NRS, CS46/1898/5/44, Summons.

⁸⁸ NRS, CS46/1900/11/24, Summons.

⁸⁹ NRS, CS46/1888/6/117, Proofs.

15 October 1880, their daughter died of scarlet fever.⁹⁰ Jane was unable to cover the costs of the funeral, but her friends stepped in and paid for the expense.⁹¹ Mary Ann Irving, who was reliant on family members for day-to-day support (see above), was helped by her friends when she had to move into a hospice. Mary Ann had been severely injured during a physical attack in March 1875. When in June 1875 she had still not recovered, her doctor advised her to go to Silverwells, in Bothwell, to recuperate. William still refused to communicate with Mary Ann, and she had to rely on friends to her friends for her expenses at Bothwell.⁹² The limited number of examples of victims relying on their friends for economic support suggests that this was a last resort. In both cases the costs would have been significant, but they were also both emergency situations where the victim seemingly had no other options.

8.4.5 Lodger

Finally, there was one example of a lodger who tried to provide a victim of cruelty with relief in the CCDB. The incident came to light in a criminal case heard at the Hamilton Court in February 1898. Miner James McGhie was tried for an assault on his wife on the evening of 19 February. The newspaper report explained that Mrs McGhie had been given almost no money for food for two months prior to the attack. On the morning of the day of the attack, there had been just two slices of bread left in the house. The lodger who was staying with the family left half of his slice of bread for Mrs McGhie and the children to eat, but James thwarted the lodger's attempt to help by eating the bread himself and throwing the crusts to the dogs.⁹³ While this was a one-off example, arguably it complies with the pattern set by neighbours: although the lodger could not afford to support the victim with money directly, he tried to provide help in other ways to improve the victim's situation, which he considered unreasonable.

8.5 Conclusion

This chapter has considered four forms of informal help that victims benefited from. First, in advance of cruelty, or to prevent ongoing cruelty escalating, the presence of others was

⁹⁰ ScotlandsPeople, Death Certificate for Annie McDougall, 15 October 1880, *Statutory Registers of Deaths* 644/1/ 1114 (Accessed: 8 July 2020)

⁹¹ NRS, CS243/4873, Summons.

⁹² NRS, CS243/6557, Summons.

⁹³ *Glasgow Herald*, 23rd February 1898.

sometimes sought. When presence worked it did so because it scared the abuser into behaving better. Coincidentally, the very people the victim was willing to trust with knowledge of cruelty were often the same people that the abuser was willing to be cruel in front of. However, even if the cruelty was not diminished in any way by the presence of another, that person could act as a witness in future legal proceedings. Second, if an act was not prevented through presence, then intervention might occur. On the whole victims had less agency with regards to intervention. Instead, those in the vicinity themselves had to choose whether to try and put a stop to the cruelty. Third, after an incident occurred, or to escape an incident, a victim might seek refuge with someone else. This form of help, together with the fourth kind of help, relief (the provision of goods, services, or money after an incident of cruelty), relied on the financial capabilities of the helper.

Presence was a strategy that worked by scaring the abuser into stopping, or never starting, their cruelty. This strategy was not a commonly reported one. But, in the SepDB it was reported in slightly more than 1 in 10 cases. Across the Victorian period this form of help was increasingly reported in the SepDB, and it shifted from being a strategy reported only by the lower-middle and upper-working classes to one that was reported in all the occupation categories. If a person's presence did help prevent abuse, it reveals how concerned the abuser was with that person becoming aware of the cruelty present in the marriage. This chapter has shown that abusers were least concerned with family members becoming aware of incidents of cruel behaviour, slightly more concerned with servants becoming aware, and most concerned about strangers becoming aware. While the figures are small, the pattern they convey is telling. When considered alongside the evidence of abusers pre-emptively locking doors before physical attacks, it seems clear that, to many abusers, marital cruelty was something to be kept secret, and outsiders should be prevented from becoming aware, where possible.

For different reasons, victims employed the same boundaries with regards to who they were willing to share knowledge of the cruelty with. Thus, the majority of examples of presence as a form of help feature family members. The presence of a family member was usually sought in advance of life-threatening cruelty. In this way, the presence of a family member differed from the presence of a servant. Of the four examples of a servant's presence, two examples were proactive decisions and two examples occurred in-the-moment. Likewise, the decisions to seek the presence of those outside of the family and household circles were split. One such decision was proactive, the other was not a decision the victim made at all (the observer having happened upon the scene under their own intuition). Evidently, victims primarily trusted family members with providing discrete protection against cruel behaviour. It was only when pushed

– as with Jessie Findlay when her sister was no longer available, or Elsie Gordon when her husband was strangling her – that they involved people outside of their family. For victims this need to keep their situation secret was not rooted in a desire not to be helped, but stemmed from the sense of shame and stigma that surrounded marital cruelty.

For the most part, intervention was not a strategy that the victim had control over. In the majority of cases the victim relied on others – be it family, neighbours, or whoever was in the vicinity of an incident – choosing to step in. The most prevalent interveners were family members and neighbours. Both of these groups could intervene directly themselves, or they might seek the help of a figure with more authority. Neighbours appear to have had slightly less authority than family members. Some brought events to the attention of family members rather than directly intervening themselves. When a neighbour did cross the threshold to intervene, they were most likely to be female. Further research is needed to establish why this was the case. Neighbours were on hand to intervene in the relationships of couples from across the class spectrum, not just in working-class homes. The remaining groups – servants, officials, and friends – intervened less frequently than family and neighbours. However, this was not necessarily because they felt it was not their place to intervene, rather they had less opportunity to do so because they were witnesses less often.

Refuge could be a long- or short-term solution for marital cruelty. A place of refuge was most commonly provided by family members, be it parents, siblings, or grown-up children. Family members usually lived nearby and were a victim's first choice. Among lower-income victims, siblings were more likely to be relied on than parents for longer-term stays; but this pattern was not discernible among wealthier victims, where elderly parents would not have had diminished earning capacities. Similarly, victims in lower-income households were more likely to take refuge with their neighbours than elite victims. Refuge with a neighbour or friend was much more likely to be short-term too. As friends usually did not live within the immediate vicinity, the refuge they offered could enable a more significant break from the relationship than that which neighbours could provide.

Relief, or economic assistance in the form of cash, goods or services was one of the lesser reported forms of help that victims of marital cruelty relied on. Victims most commonly received relief through the help of legal officials. Small Debt Courts ordered husbands to alimant their wives and provided victims with the legal means to access the funds they were entitled to. When a person helped by providing the funding themselves – rather than arranging for it to be paid as the courts did – they were most likely to be family members of the victim. Although friends and neighbours also provided relief, the former were more likely to cover

specific costs rather than day to day relief, and the latter were more likely to provide relief through the provision of services that directly aided the injured victim.

Across all the forms of help except relief, it was those closest emotionally and physically to the couple who were most likely to provide help: family members and neighbours. Somewhat more emotionally distant, but located on site, servants were usually the next most likely group to provide help in the form of presence, intervention, or refuge. The further away from a couple's inner circle a person was the less likely they were to provide help. This is not to say that outsiders were unwilling to help victims of marital cruelty, but rather that they had less opportunity to do so. The exception to this was help given in the form of relief. Officials were most likely to provide relief, either directly through parochial funds or indirectly by legally ordering husbands to aliment their wives and families. After the courts, the regular pattern resumed of those closest – family and neighbours – most often providing relief.

Chapter 9 Police Officers and Criminal Courts

Alongside the informal types of help discussed in Chapter Eight, a victim could turn to the criminal justice system for support. This chapter will consider the help that could be provided both by police officers on the beat and magistrates and sheriffs who served summary and solemn justice in Scotland's inferior criminal courts.

Scotland's first police courts were introduced in Glasgow in 1800.¹ Police courts, sometimes referred to as magistrates' courts, were the "principal place of summary jurisdiction".² These inferior courts had jurisdiction over petty offences, assaults, and misdemeanours. The 1862 Police and Improvement Act [Scotland] set limits on the level of abuse that fell under the magistrates' jurisdiction. Only assaults that did not threaten the victim's life, did not involve lethal weapons used to the effusion of blood, or did not leave victims with fractured limbs could be prosecuted in the inferior courts.³ Legally, police courts were supposed to remit any cases that involved defendants who had been twice convicted of similar crimes to the procurator. When such a case was remitted, it was then usually tried under solemn procedure in the Sheriff courts.⁴ For the majority of the Victorian period, the sentencing powers of sheriffs and magistrates were equal. Both ordinarily had the power to impose fines of up to £10 and imprisonments of up to two months; however, under solemn procedure, a sheriff could go further and impose fines of up to £50 and imprisonment of up to two years.⁵

The Mitchell Library in Glasgow holds a limited collection of records associated with inferior criminal courts. However, the information contained in the police registers is restricted to the defendant's name, charge, plead, and the outcome of the case. Occasionally the marginalia offer snippets of extra information, but this is not consistent. In order to study the proceedings of these courts, it is necessary to consult newspapers. The *Glasgow Herald* began life as a weekly paper in 1783 and grew to become a daily in 1859. Alongside classified advertisements, trade reports, and foreign and local news, the paper printed short synopses of a small number of criminal cases that were heard in the city's courts each day. The newspaper

¹ David G. Barrie and Susan Broomhall, *Police Courts in Nineteenth-Century Scotland*, vol. 1 (Farnham, Surrey, England ; Burlington, VT, 2014), 11.

² *Ibid.*, 1:1.

³ Hughes, "The 'Non-Criminal' Class," 2010, 37.

⁴ Barrie and Broomhall, *Police Courts in Nineteenth-Century Scotland*, 1:85.

⁵ *Ibid.*, 1:86.

had limited space, and so the cases that were published represented less than a quarter of all those heard, and cannot be considered an accurate representation of *actual* crime.⁶ Instead, the selected cases presented crime through the moral lens of the conservative-leaning editors of the *Glasgow Herald*.⁷ The data gleaned from this source was entered into the criminal court database (hereafter, CCDB). With the exception of the husband's occupation, information related to criminal cases of marital cruelty was usually presented in a standardised form: names, date of incident, brief description of the criminal acts. Though qualitatively limited, this strict format made comparisons between cases easier.

Information about the use of the police and the criminal justice system was more ad hoc in the separation and divorce cases. While 53 separations (43.33 per cent) and 12 divorces (24 per cent) reported some level of police involvement, not all of these case files gave details of the exact charge, rate of bail, or punishments. While this chapter draws heavily on data from the CCDB, the separations database (hereafter, SepDB) and divorce database (hereafter, DivDB) provide supplementary evidence both on aspects of criminal justice and marital cruelty included in the CCDB and on themes that were not traceable in the brief newspaper summaries. Finally, it is important to remember that not all forms of unreasonable marital behaviour were criminal. Only behaviours that caused the victim physical injury, or behaviours such as drunkenness or causing a disturbance warranted criminal interventions. The range of behaviours being judged in incidents of marital cruelty that involved the police were limited, compared with those that victims might complain of in a civil court setting.

This chapter will begin by exploring the effect of social class on the use of the legal system by victims of marital cruelty to control the actions of their abuser. Changes in the levels of engagement across the Victorian period will also be considered. Having established what sort of victim used the criminal courts to manage marital cruelty, the chapter will look at *how* they did this. For some victims the presence of the police was all that was required, while others followed a prosecution through to sentencing, and the remainder stopped at varying stages throughout the process.

This chapter will then consider the actions of the officials: police officers and judges. How did police officers who attended the scene react to incidences of marital cruelty? How often were the accused found guilty and what sentences were they given? This chapter will

⁶ Ibid., 1:32.

⁷ Ibid., 1:34; Laurel Brake and Marysa Demoor, eds., *Dictionary of Nineteenth-Century Journalism in Great Britain and Ireland* (Ghent, Belgium, 2009), 250–51.

close by considering the potential for the police and police courts to be used in a cyclical manner, not to end cruelty in a marriage but to manage it.

9.1 Overall Trends

Officials in the criminal justice system – police officers, procurators, and judges – supported victims of marital cruelty in various ways. A police officer might be informed of an incident of cruelty, or they might witness it first-hand. If they were on the scene, they might intervene physically to protect the victim. After the incident they had a number of options too, they could caution the perpetrator verbally, they could take the perpetrator away to cool off, or they could formally arrest the perpetrator. If an arrest was made by a police officer, a conviction was not guaranteed. The procurator first had to agree to prosecute. The victim might refuse to press charges, or they might defend the perpetrator during the trial.

At the data entry stage of the SepDB and DivDB, it was recorded whether or not the police were informed of an incident. While this criterion does not grasp the nuances of a victim's engagement with the criminal justice system, it provides a basic level of police involvement. There were nine divorce cases that reported at least one incident that the police became involved in (18 per cent). Among separation cases the rate was higher: 43.44 per cent (53 cases). As the 486 cases in the CCDB were based on newspaper reports of criminal court proceedings, the police had certainly been informed of all 486 of these cases at some point.

As Figure 9.1 shows, in all three databases the majority of cases were brought from the 1880s onwards. It only began to be reported that the police were at least informed of incidents of marital cruelty in separations brought from the 1850s onwards, and in divorces brought from the 1870s onwards. Although there were newspaper reports of criminal court proceedings for marital cruelty in every decade of the period covered by the scope of this project, in the 1840s there was less than one report per annum. The increase in reports across the period could be suggestive of a growing willingness among victims to involve the police and among the police to intervene in 'private' marital disputes. At the same time, the sharp rise in the number of CCDB cases in the 1890s might have reflected an increase in public appetite for stories of marital conflict among the working-classes.

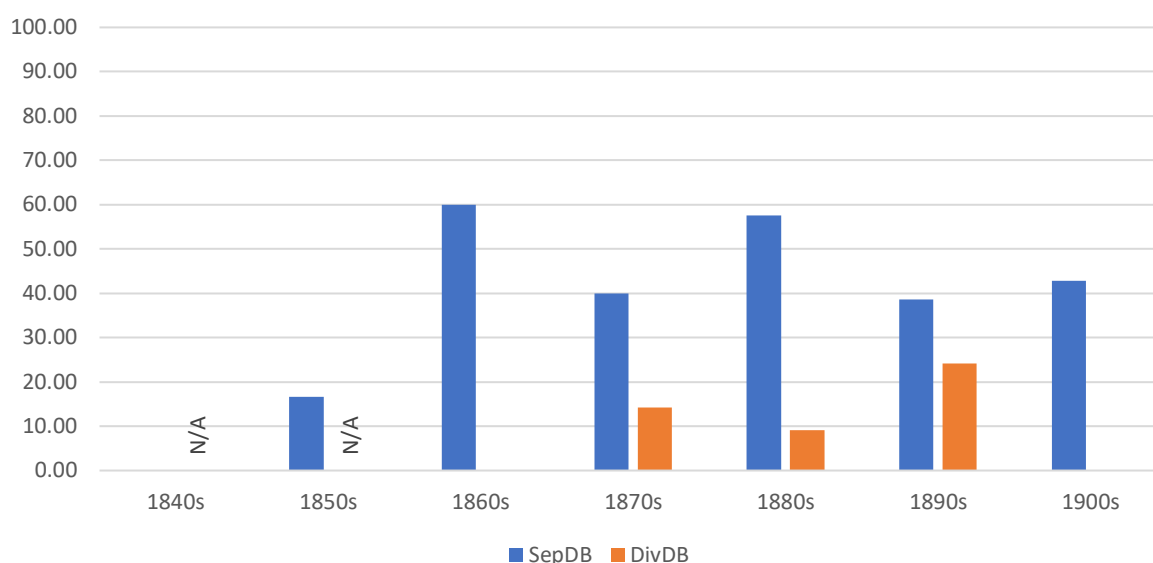


Figure 9.1 Percentage of separation and divorce cases that reported that police were aware at least once by decade

The occupation categories of those who enlisted the help of the police in incidents of marital cruelty varied depending on the medium (Figure 9.2). Most notably, only separation cases reported that couples from the two wealthiest categories relied on the police to help with marital cruelty. Figure 9.3 presents the distribution of occupation categories of cases that involved the police in some way across each database. This figure shows cases from the skilled occupation category represented a third of the separations and divorces that reported police involvement in at least one incident of unreasonable marital behaviour. However, just four of the 486 cases in the CCDB (0.82 per cent) involved husbands with skilled occupations. Again, the same pattern can be observed in the skilled trade category too. Between 22 and 27 per cent of divorces and separations brought by couples in the skilled trade category referenced police involvement, but only 5.5 per cent of the criminal court cases reported in newspapers involved husbands whose occupation was a skilled trade.

Towards the lower end of the scale, the pattern continued narrowly before reversing. Couples from the skilled labour category represented a third of the divorces and almost a fifth of separations, that included police involvement, compared to a tenth of criminal court cases. Data on couples from the unskilled labour category reversed the pattern. This level accounted for 36.83 per cent of the criminal court proceedings reported in newspapers, but just 13.21 per cent of separations and 11.11 per cent of divorces.

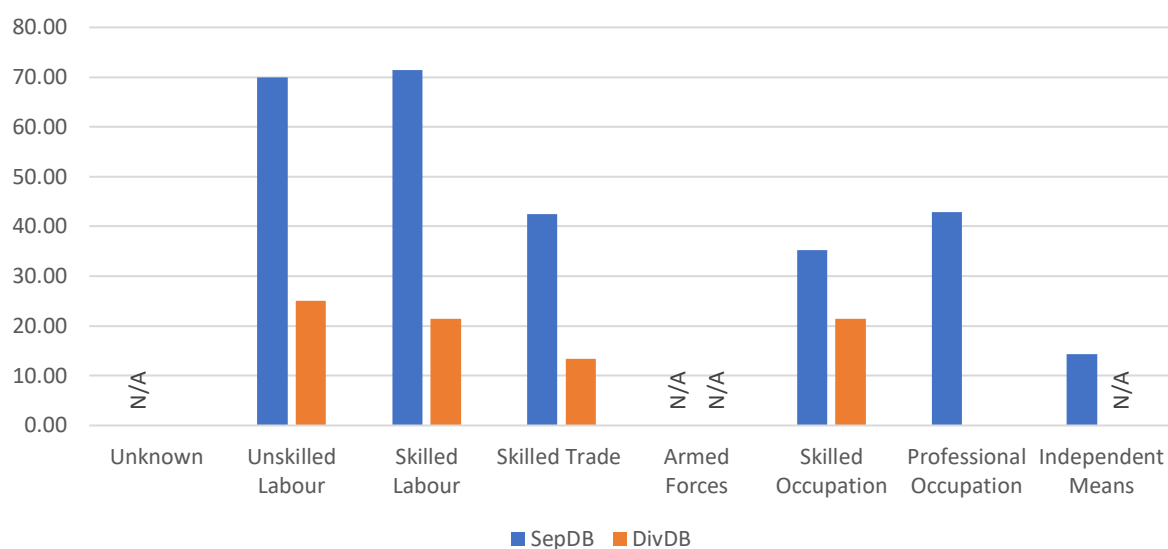


Figure 9.2 Percentage of SepDB and DivDB cases that reported that police were aware at least once, by husband's occupation category

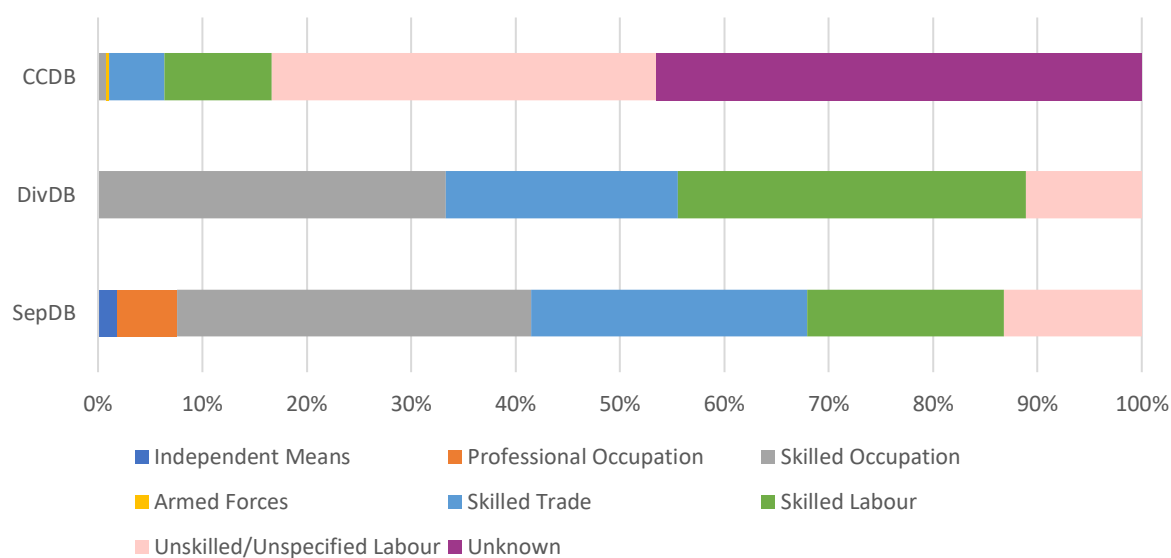


Figure 9.3 Distribution of husband's occupation category in cases that reported that police were aware at least once

It is worth paying additional attention to the 'unknown' occupation category. In almost half of the criminal court cases the husband's occupation was not reported on and could not be ascertained through other means. There were no separation cases where the husband's

occupation was not given, and the single divorce assigned to this category did not reference police involvement in any way. Newspaper reports were constrained by the space available. But, the distribution of occupation categories represented in their reports compared to the distribution in the less publicly presented civil court cases is telling. When the unknown category cases are removed from the equation and only the known occupation categories are compared, as in Figure 9.4, the difference is striking. A. J. Hammerton's survey of newspaper reports on the business of the Preston police court found 42.97 per cent of husbands charged with wife-assault were unskilled, 32.03 per cent were skilled workers, and 25 per cent were shop-keepers, i.e. lower middle- and middle-class.⁸ In Preston at least, the coverage was more aligned with the pattern set in the SepDB and DivDB in terms of class. In Scotland, the *Glasgow Herald*, deliberately or otherwise, perpetuated the incorrect association of marital cruelty with the working classes by selectively printing the prosecutions of those in the unskilled labour category more than any other.⁹

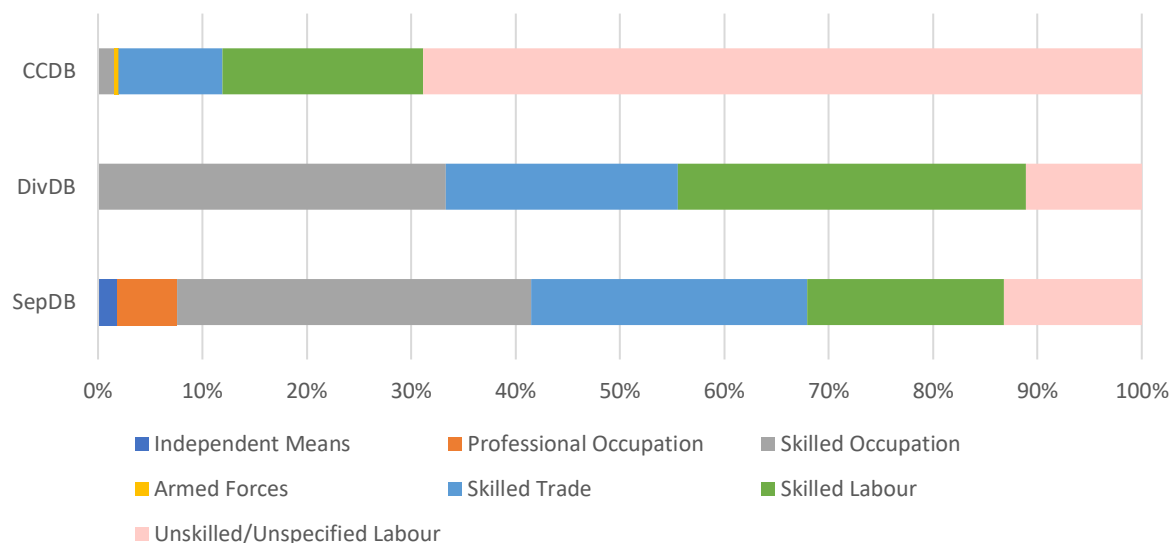


Figure 9.4 Distribution of husband's occupation category in cases that reported that police were aware at least once

(NB: the CCDB cases where the husband's occupation category is unknown are not presented in this figure)

⁸ Hammerton, *Cruelty and Companionship*, 35–37.

⁹ See Hammerton, *Cruelty and Companionship*, 57 for a brief summary of the longevity of this false association.

Simply counting whether the police were informed of any incidents in a separation or divorce case glosses over the various ways in which a victim might engage with the criminal justice system. It is possible to imagine that in the cases from the skilled trade through to independent means categories in Figure 9.2, incidents were *only* reported to the police and that no criminal trial – which would warrant a newspaper report – ever occurred. However, this was not the case. All of the separation cases from these top three occupation categories involved at least one criminal prosecution, and ten of the fourteen skilled trade separation cases did too. Similarly, one of the two skilled trade category divorces, and two of the three skilled occupation category divorces also included incidents of marital cruelty that resulted in a criminal trial.

As well as showing the apparent tendency of newspaper editors to present marital cruelty as a working-class issue, this data speaks to the impossibility of counting marital cruelty. None of the 486 couples whose cases featured in the CCDB could be credibly linked to any of the civil court cases in the SepDB or DivDB. Correspondingly, none of the incidents reported to have involved the police in the SepDB or DivDB were discovered in any newspaper reports. Thus, the majority of couples who used the criminal justice system to manage cruelty never went on to seek a civil solution. A separation on the grounds of marital cruelty was a legal option, and while the costs could be covered by the state for poor pursuers it was evidently not a desirable or accessible option for most. As Barry Godfrey has shown through oral histories, many more incidents of marital cruelty “were never reported to the police, let alone reached court, and therefore, remained undocumented in media or official sources”.¹⁰ Underreporting – by victims and as a result of newspaper selection – makes accounting for the dark figure in calculations of historical marital cruelty impossible.

In sum, the police were involved in around 20 per cent of divorces and 40 per cent of separations. In all three databases there was an increase in police involvement in marital disputes across the Victorian period. While data from the civil courts suggests that people from across the class spectrum were willing to involve the police in their marital disputes, this does not align with the image of criminal justice presented by the newspapers.

9.2 How Victims Engaged with the Criminal Justice System

¹⁰ Godfrey, “Counting and Accounting for the Decline in Non-Lethal Violence in England, Australia, and New Zealand, 1880-1920,” 349.

Victims engaged with the criminal justice system in a number of ways. Even if they requested the interference of the police during an incident, at any point in the process they could choose to stop cooperating and try to protect their spouse from punishment rather than see a prosecution through to completion. And, while they might act one way on one occasion, circumstances might change, and they could follow a different path at later stages. This section will explore the different routes a victim might take after the police were made aware of an incident of marital cruelty.

The police were made aware of at least one incident of marital cruelty in 53 separation cases and 9 divorces brought by couples in the Greater Glasgow area during the Victorian period (43.44 per cent and 18 per cent respectively). The cases did not always provide sufficient detail to accurately convey the level of agency the victim had in the decision to involve the police. A victim may have called for the police themselves, either with the hope that the police would hear directly or that a neighbour would be alerted to their distress and go for the police. On 24 November 1879, at their family home on West Blackhall Street, Greenock, pilot Peter Williams physically assaulted his wife Margaret Downie. Margaret escaped from Peter into the parlour and locked the door behind her. As Peter tried to break open the door with a poker, Margaret called for the police from the window. After hearing Margaret's cries the police attended the scene. Peter was subsequently sentenced to ten days imprisonment or a 2 guinea fine.¹¹ The police were also sought by others without the explicit authorisation of the victim, such as when Mr Watt, a sheriff officer, went for a policeman on behalf of his neighbour Margaret Cowan. Late in the evening of 3 January 1876 John Currie assaulted his wife, Margaret. She ran, bleeding, to the home of their neighbours, the Watts. John followed Margaret and continued to attack her inside their neighbour's home. While Margaret appealed to Mary Campbell (or Watt) for assistance, Mr Watt went for the police who promptly arrested John.¹²

In two separation cases, the victim informed the police of the marital cruelty after the fact.¹³ Both cases were brought by wives whose husbands had professional occupations, and both were brought within a few years of each other in the late 1870s and early 1880s. On 20 November 1878, accountant Archibald Gair returned to the home he shared with his wife Ellen Wylie. He was drunk and began to assault Ellen by throwing her to the floor repeatedly. Ellen

¹¹ National Records of Scotland, Edinburgh (hereafter, NRS), CS46/1881/3/14, Proofs.

¹² NRS, CS243/1144, Proofs.

¹³ Two separation cases involved this (1.64 per cent of all separations, 3.77 per cent of the separation cases that involved the police in some way).

was hesitant to seek the help of the police. Instead she suffered his cruelty for a number of days before she “felt compelled to lodge a complaint against the defender for assault with the police in Partick”.¹⁴ To go for the police was not Elsie Gordon’s first response to her husband’s cruelty either. On 22 January 1884, Elsie had prepared for her husband’s cruelty by having their servant Agnes Meek sleep with her “for protection” and locking her bedroom door. Despite Elsie’s best efforts, that evening her husband – barrister John Humphreys – managed to get into the bedroom through the window and, after threatening to kill Elsie, he put her out of the house. Elsie explained that she had been unable to secure protection in other ways and so she lodged the information with the police. Clearly both wives were reluctant to involve the police in their situation. Before complaining to the police, Ellen waited days while Elsie tried to get help elsewhere first.

Regardless of whether the victim agreed that the police should be informed of an incident of marital cruelty, they might not want the police to act on the information. Instead victims may have believed that police awareness would act as a sufficient warning to their abuser. In two separation cases the victim refused to testify against their spouse. While it is possible that the victim was persuaded not to testify by their spouse, the separation of Ellen Alexander against Allan McMaster sheds light on the conundrum that a criminal trial presented for female victims of marital cruelty. Ellen’s solicitor stated in her 1882 Summons that she had “frequently called in and twice removed the defender to the Cranstonhill Police Office on charges of assault”. However, Ellen had always refused to appear as a witness against her husband, “for the sake of the children”.¹⁵ As Annmarie Hughes has explained, female victims of marital cruelty were faced with two equally unsatisfactory options when it came to criminal prosecutions.¹⁶ If they were to support the prosecution, then their husband might be incarcerated for a number of weeks or months. While this would provide them with an escape from the cruelty, it would also deprive them of his income if he was in work. Alternatively, the resulting sentence could be a monetary fine, which would similarly damage the family’s finances. In both cases the prosecution could serve to anger the perpetrator rather than reform him. At best a wife might be able to curry favour with her husband by not supporting the prosecution, and at least she would be shielded from some of potential financial damage (if he had been taken in charge and failed to appear he would have still forfeited his bail, see below).

¹⁴ NRS, CS46/1879/11/68, Summons.

¹⁵ NRS, CS243/4875, Summons.

¹⁶ Hughes, “The ‘Non-Criminal’ Class,” 2010, 38.

For Ellen, and other wives who later sought civil court suits after declining criminal prosecutions, the benefits of not prosecuting outweighed the negatives.

In three criminal court cases it was reported that the wife did appear as a witness for the prosecution, but still tried to defend her husband's behaviour. Joseph Martin was convicted of a "brutal" and "continued assault" on his wife in the Glasgow Criminal Court in February 1884. Dr James Chalmers testified that Mrs Martin had "a severe wound on her head" after the incident and that "her face was like a mass of pulp". Mrs Martin also took the stand during the trial and stated that Joseph had been a good husband and father to their children. In summing up, Sheriff Spens stated that "the injured woman while giving evidence had stated all that his Lordship believed could possibly be said in [Joseph's] favour". In response, the jury recommended leniency and Sheriff Spens agreed; Joseph was sentenced to four months imprisonment.¹⁷ While only three wives were reported to have defended their husbands during criminal trials in this way, Sheriff Guthrie was reported to have stated during a trial in 1890 that, "in his experience he had found that a wife very seldom spoke out against her husband".¹⁸ Sheriff Guthrie presided in over 30 of the 486 cases reported in newspapers in the years between 1878 and 1899. He was the most named judge in the CCDB. David G. Barrie and Susan Broomhall have estimated that newspapers only reported around three of more than 20 cases that were heard in a single day.¹⁹ Thus, Sheriff Guthrie possibly heard hundreds of cases of assault between spouses. So, the fact that it was his experience that wives rarely gave testimony that harmed their husbands raises interesting questions. If so many wives did not support the prosecution of their husband but it went ahead regardless, how much agency did they really have over criminal prosecutions?

Even if the victim supported the prosecution of their spouse, the case might not make it to trial. In six separations and one divorce case the perpetrator was reported to have been arrested, charged and bailed, but then later failed to appear for trial. When a perpetrator avoided court in this way, they forfeited their bail pledge. Although seven husbands in separations and divorces were reported to have been released on bail and forfeited this pledge, the amount they forfeited was only recorded in three cases: 20s, 21s, and £2, 2s. One of those husbands was Robert Richie. In 1889 Robert and his then wife Eliza Clarkson had been staying at Eliza's father's "coastal residence" in Millport, the only town on the island of Great Cumbrae in the Firth of Clyde. While there, Robert had broken down the door to the house and threatened the

¹⁷ *Glasgow Herald*, 6th February 1884.

¹⁸ *Glasgow Herald*, 19th July 1890.

¹⁹ Barrie and Broomhall, *Police Courts in Nineteenth-Century Scotland*, 1:32.

life of Elizabeth's father Peter Clarkson. The police were called and arrested Robert. After being held at the local police station he was released on a pledge of £2, 2s, which he forfeited when he failed to appear in court.²⁰ Bail pledges were deliberately set at rates equivalent to the fine that could be imposed if the perpetrator was found guilty. Barrie and Broomhall have argued that this was "an inducement for the accused not to appear in court but rather to forfeit the sum by way of punishment".²¹ A magistrates' case load was so full that to accept the forfeiture of a perpetrator's bail pledge in lieu of imprisonment or fines was a "pragmatic necessity".²²

These alternative routes filtered out some of the incidents and meant that not all cases made it to court. Thus, of the cases that included at least one incident of marital cruelty that the police were informed of – 53 separations and 9 divorces – a criminal prosecution occurred in 60.38 and 77.77 per cent of those cases respectively (32 separations [26.23 per cent of all separation cases], 7 divorces [14 per cent of divorce cases sampled]). Victims engaged with the criminal justice system on a sliding scale. For some victims, reporting an incident was enough, but others saw prosecutions through to the end.

9.3 How Police Officers Handled Marital Cruelty

When the police became aware of an incident, there were a range of ways they could respond. If they were present at the scene, then they might intervene – a form of help that was discussed in Chapter Eight. As officially sanctioned helpers, the police had the power to go further than neighbours might have felt they could. Such as when the police broke into the home of Mary Hume and David MacDonald. It was around 10pm on 11 December 1873 when, in their home at 373 Bath Street, Glasgow, David began to verbally assault his wife Mary. He called her a 'street walker' and a 'Gartnavel kept-miss' among other names before he assaulted her physically. Mary was bleeding profusely, but "it was not until the police had broken into the house and interfered that [Mary] was delivered from [David's] violence".²³

After the situation was de-escalated, or in order to de-escalate an incident, the police might remove the perpetrator. When the police took the aggressor to the police station, they could do so without formally pressing charges, though this was only reported in two separation

²⁰ NRS, CS46/1896/3/57, Summons.

²¹ Barrie and Broomhall, *Police Courts in Nineteenth-Century Scotland*, 1:202–3.

²² *Ibid.*, 1:443.

²³ NRS, CS246/1506, Summons.

cases. The first example was in the case of Helen Ward against James Fletcher. During his defences James stated that on one occasion in 1884 (three years after they had begun to live separately and two years before Helen raised the separation case), Helen had appeared at his residence while drunk. According to James, Helen had become violent and she was removed to the Central Police Office by some officers. On this occasion though the police took no formal action and she was only held there until she sobered up.²⁴

A second example was found in the case of Catherine McKay against Donald Cameron, a mason. In the middle of August 1897, Donald was sentenced to 14 days imprisonment for a physical assault on his wife. While Donald was in prison, Catherine took a home for herself and their seven children in the name of one of their grown-up sons. Soon after Donald was released from prison, he tried to gain access to Catherine's new home against her wishes. The police took Donald away but he was released without charge upon his promise "to cease molesting the pursuer".²⁵ It was not possible to ascertain the opinions of police officers during this research, but given their experience, it is likely that officers recognised how difficult a prosecution was for victims.

In two separation cases brought in 1900 the police were reported to have verbally cautioned the perpetrator against cruelty but did not press charges at that time. On 20 June 1900, pawnbroker John McCarey punched his wife Annie Barker repeatedly on the head. When Annie sought the help of the police, she asked for them to caution her husband but not to bring formal charges. At the time, Annie also had PC James Chaplin feel the lumps on her head from where John had punched her. While Annie never brought criminal charges against her husband for this incident, PC James Chaplin testified during the separation case Annie raised the following year.²⁶

In the majority of cases, police involvement led to the perpetrator at least being charged with an offence. This was the case in all nine divorces and 71.7 per cent of separation cases (38 separations) that reported some level of police involvement. When an abuser was charged, they were most likely to be charged with assault. In the CCDB assault was the primary charge (Table 9.1). The few charges that were not assault were related to public nuisance. Perhaps when a victim of marital cruelty did not support a prosecution the police could use their discretion and bring lesser charges for drunk and disorderly, or causing a disturbance. While separation and divorce cases did not consistently report the charges brought against

²⁴ NRS, CS46/1886/7/61, Defences.

²⁵ NRS, CS46/1898/11/126, Summons.

²⁶ NRS, CS46/1901/1/67, Summons; NRS, CS46/1901/1/67, Proofs.

perpetrators, the context would imply that assault was the primary charge here too. There were four separation cases where the charge was not for assault. In two cases the perpetrator was convicted of breach of the peace.²⁷ There was also one separation case that involved a charge of child neglect, and in another the defender was arrested *in meditatione fugae* (in contemplation of flight).²⁸ In one divorce case, brought on the grounds of adultery, the defender had served seven days imprisonment after admitting to having had sexual relations with a man who was not her husband in a public stairwell.²⁹

Table 9.1 Breakdown of charges brought in CCDB cases

Charge	Number of Cases
Assault	428
Unknown Charge	40
Assault & Causing a Disturbance	10
Assault & Drunk and Disorderly	2
Causing a Disturbance	2
Drunk and Disorderly	2
Aggravated Assault	1
Assault and Attempted Murder	1
Total	486

There was only one separation case where the police were explicitly described as unwilling to charge the perpetrator. One afternoon in December 1892, maritime engineer Hector McCrae punched his wife Catherine McCuish on the head. The incident took place in their home at 118 Hyde Park Street, Glasgow, and there were no witnesses. While Catherine reported the incident to the police, Hector was never charged. It was not necessarily that the police did not consider Hector's behaviour unreasonable, but that Catherine could produce no witnesses for the incident.³⁰

²⁷ NRS, CS46/1874/3/89, Summons; NRS, CS46/1899/8/32, Summons.

²⁸ NRS, CS243/5132, Summons; NRS, CS243/4875, Summons.

²⁹ NRS, CS46/1880/1/73, Summons.

³⁰ NRS, CS46/1899/7/109, Summons.

9.4 How Marital Cruelty was Handled in the Criminal Courts

Having established the various routes that could follow police involvement in an incident of marital cruelty, this section will outline what happened when a case was tried in a criminal court. Based mainly on the CCDB data, the charges that could be brought and the possible outcomes of the case will be covered, before a discussion of the sentences handed down by the criminal courts in the Greater Glasgow region across the Victorian period.

Those cases that were not filtered out at an earlier stage and went to trial were most likely to result in conviction. Although this was true in each of the three databases (Table 9.2), given the *Glasgow Herald* were not reporting on all summary justice cases heard in a given day, it is possible that they deliberately portrayed an image of justice-served and only reported on cases that resulted in a guilty conviction. While Barrie and Broomhall's work distinguishes between where the defender was or was not present in the trial, there were no cases in the CCDB where the defender was convicted in their absence. Of all the cases in each of the databases that resulted in trial, just seven CCDB cases resulted in an outcome other than conviction. Edward Gibbins, who attacked his wife Agnes with a hatchet on 15 February 1882, was found to be not guilty due to insanity, and was detained indefinitely.³¹ In two cases the perpetrator was considered guilty, but they were dismissed with admonishment.³² In another case the perpetrator plead guilty but as he had already served eight day in prison while he awaited trial, the time served was considered sufficient punishment and he was admonished. In this case the Sheriff was recorded as saying there was "blame on both sides" and admonished the prisoner and "hoped that [he] would endeavour in future to live peaceably with his wife".³³ Three cases in the CCDB resulted in the defender being found not proven. This uniquely Scottish verdict signals that the judge or jury believe the defendant to be guilty, but do not have sufficient proof.

As Table 9.1 shows, the charge brought against the defendant was recorded as assault in 88.7 per cent of CCDB cases (428 cases). After a conviction for assault, the law permitted police court magistrates and sheriffs who tried perpetrators summarily to impose a fine of up to £10 or a sentence of up to two months' imprisonment. When a sheriff heard a case under solemn procedure, that is with a jury present, the sentencing possibilities increased to up to a

³¹ *Glasgow Herald*, 24th April 1882.

³² *Glasgow Herald*, 9th July 1864.

³³ *Glasgow Herald*, 1st January 1870.

£50 fine or two-year prison sentence. Prison sentences in the CCDB ranged from five days to fifteen months, and fines from 7s 6d to £10. Punishments were standardised in the CCDB to allow for analysis. The number of cases that resulted in sentences of penal servitude was statistically insignificant, so these were recorded simply as prison sentences during the standardisation process. A scale was then developed to standardise the fines and lengths of prison sentences.³⁴

Table 9.2 Outcomes of CCDB cases

Standardised Outcome	SepDB	DivDB	CCDB
Convicted	32	7	479
Not Proven	0	0	3
Admonished	0	0	3
Insane	0	0	1
Total Number of Cases with Minimum of One Trial	32	7	486

The frequency with which the most common sentences in the CCDB were handed down are shown in Figure 9.5. With the exception of the 1860s and 1870s, prison sentences (represented in Figure 9.5 in shades of green varying from the lightest sentences in light green to the longer sentences in dark green) were popular across the period. Furthermore, while the use of the shorter prison sentences of two months or less dipped between the 1850s and 1880s, they were more popular by the 1900s than they had been at the start of the Victorian period.

Importantly, Figure 9.5 shows that from the 1850s criminals in the CCDB were given the option to serve a prison sentence *or* pay a fine. While these sorts of sentences were still used at the end of the period, they were particularly popular in the 1860s and 1870s. As such, prison sentences of 1-2 months and 3-6 months constituted a significantly smaller share of the sentences at this time.

³⁴ The standardised scale for fines was: 0-10s, 11-30s, 31-50s, 51-100s, 101-200s, 201s+. The standardised scale for prison sentences was: 0-10 days, 11-30 days, 31-60 days, 61-90 days, 91-180 days, 181-365 days, 366 + days. While some sentences were for under one month, any sentence that was for a number of months was recorded as $X * 30$ days. For example, 7 months would be $7 * 30 = 210$ days.

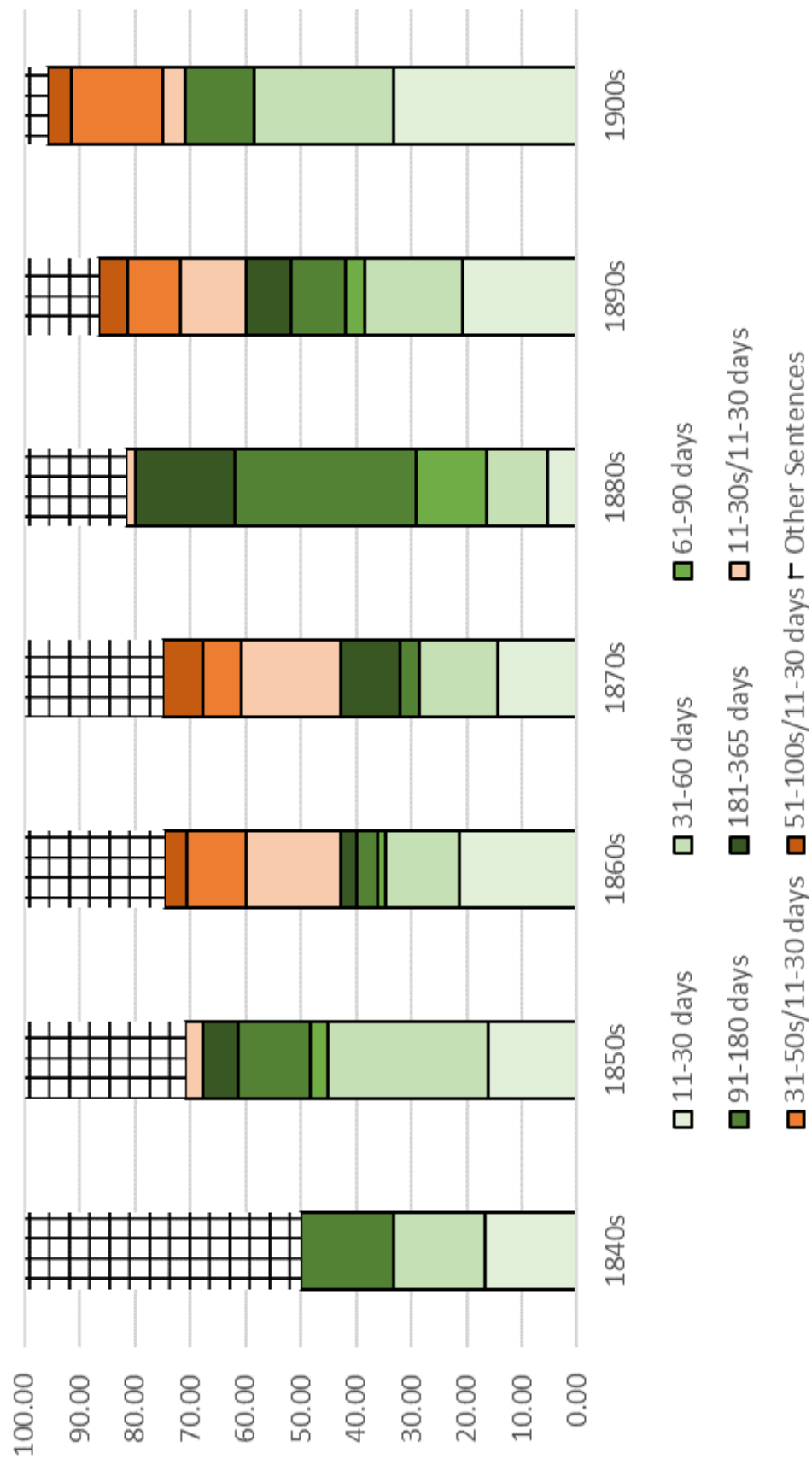


Figure 9.5 *Distribution of the most common sentences in the CCDB by decade*

The 1880s were something of an anomaly in this data. Lengthier prison sentences of between three months and a year accounted for half of the sentences given out, while the option of a fine or a prison sentence only accounted for 2 per cent. In the 1890s and 1900s the distribution of sentences returned to something more similar to what had been seen before, though there were some key differences. First, there was a heavier reliance on shorter prison sentences of less than two months. Second, the option of paying a fine of between £1 10s and £5 as an alternative to prison time of less than a month was more routinely offered than the lighter fines of less than 30s. With the exception of the 1880s irregularity, this data concurs with Annmarie Hughes' argument that "the Scottish judiciary was not using harsh penalties as a means of expressing condemnation of wife-beating".³⁵ Across the period as a whole, the most notable change is that punishments became more consistent. While the top eight categories of sentencing accounted for half of the sentences handed down in the 1840s, they represented 95.83 per cent by the 1900s.

9.5 How the Criminal Justice System Helped Victims Cope with Cruelty

The forms of help that the criminal justice system offered victims were usually short term. Thus, the victim's strategy with relation to police involvement could change over the course of the marriage. Because the civil court cases recount the stories of a marriage from start to finish, it is possible to trace individual victims' multiple interactions with the criminal justice system. In 32 separations (26.23 per cent of all separations and 60.38 per cent of the 53 separations that recorded at least one incident of police involvement), and in 2 divorces (22.22 per cent of divorces that reported at least one incident of police involvement, 4 per cent of all divorces) the police were recorded as having been aware of more than one incident. During the 14-year marriage of Elizabeth Cardy and baker Robert Kelly, Elizabeth involved the police in five incidents of physical cruelty that she later reported during their 1887 separation case. On two occasions the police were present during the incident, but no further action was taken. After the remaining three incidents Robert was charged with having assaulted his wife, and in two of these three cases he appeared at trial and was convicted.³⁶ While this data is not so easily discovered in the newspaper reports of criminal proceedings – as the data is too limited to

³⁵ Hughes, "The 'Non-Criminal' Class," 2010, 48.

³⁶ NRS, CS46/1888/1/52, Summons.

enable links to be confirmed – 27.57 per cent (134 defendants) of those tried in the CCDB were explicitly identified as repeat offenders.³⁷

For a small number of victims, a prosecution could be part of a longer-term solution. It was not possible to track what happened to couples who featured in newspaper reports of criminal proceedings after their trial, but four separation cases were raised by wives whose husbands were, at the time the case was brought, serving prison sentences for crimes associated with their unreasonable marital behaviour. Two husbands were serving two-month prison sentences for assault; while a third was still imprisoned, having been arrested *in meditatione fugae* as he travelled to the Cape of Good Hope, South Africa.³⁸ A fourth husband, Robert Ketchen, was serving just a 14-day sentence in July 1897 when Jane Grieve’s solicitor entered her Summons.³⁹

These stories of long-term solutions being facilitated by criminal court cases – because the resulting prison sentences provided the victims with the physical and mental space to raise a civil suit – were in the minority. Many more victims appear to have used the criminal justice system to manage their spouse’s behaviour as part of an ongoing relationship. Jessie Loudon was exceptional because she spoke of this pattern openly. During her 1896 divorce action against her husband William Watson, Jessie testified that she “complained to the police occasionally of his treatment of [her], and there would be a little improvement after that, but not for long.”⁴⁰ While William never permanently improved after police intervention, Jessie recognised the effect police involvement could have on her husband. Involving the police for Jessie, and likely for many others, was a strategy she could use to shape her abuser’s behaviour.

9.6 Conclusions

The police were made aware of unreasonable behaviour at least once in a fifth of divorce cases and two fifths of separation cases. Almost 500 criminal court cases in which police and other criminal justice officials dealt with forms of marital abuse were reported in the weekly, and later daily, *Glasgow Herald* between 1846 and 1901. Police involvement was most commonly reported from the 1880s onwards, but the CCDB, SepDB, and DivDB included cases from the 1840s, 1850s, and 1870s respectively. Although perpetrators from the elite occupation

³⁷ In 1.65 per cent of CCDB cases (8 defendants) the defendant was explicitly identified as a first-time offender, and in 70.78 per cent of cases (344) the defendant’s criminal history was not reported.

³⁸ NRS, CS46/1882/10/19, Summons; NRS, CS46/1899/4/14, Summons; NRS, CS243/4875, Summons.

³⁹ NRS, CS46/1897/11/105, Summons.

⁴⁰ NRS, CS46/1896/8/10, Proofs.

categories were reported to have been prosecuted in the police courts of Glasgow in the civil cases of divorce and separation, there were no reports of elite perpetrators in the newspapers. Thus, unintentionally or otherwise, the findings of this thesis show that newspapers presented marital cruelty as a working-class issue.

The involvement of police officers did not necessarily guarantee a trial or conviction, but this was the outcome in the majority of cases. After the police became aware of an incident of unreasonable behaviour, the victim or the officers could reroute the path to avoid prosecution. Female victims faced a difficult dilemma when it came to prosecution: they could be spared the presence of their abusive husband, but they would also lose his earning power if he was imprisoned, or they too would be financially stung if he was fined. Thus, some victims only desired the presence of the police during an incident and refused to testify in any potential action the police wanted to bring. Similarly, the police recognised the difficulties victims would suffer if a prosecution did take place. Rather than arresting a perpetrator straight away, police officers could offer a verbal warning or simply remove the perpetrator from the situation without bringing formal charges. Although these alternative outcomes were available, the image presented by newspapers was one of the majority of perpetrators of marital cruelty being arrested, tried, and convicted. After a conviction, a perpetrator was likely to receive a prison sentence for the majority of the Victorian period. Though the option of a fine as an alternative to prison time was available, this never represented more than one third of the sentences reported in the CCDB per decade. It is true that the 1880s saw a period of predominantly relatively harsh prison sentences being reported on in the *Glasgow Herald*, though this was an anomaly. By the end of the Victorian period, prison sentences of less than two months were the main form of punishment in cases reported in the *Glasgow Herald*, though at the same time, the use of harsh fines with the alternative of short prison sentences was becoming more common.

Finally, this chapter has revealed the cyclical nature of strategies for marital cruelty that involved the criminal justice system. A quarter of defendants in the CCDB were identified as repeat offenders, while 31 separation and 2 divorce cases reported that the police were informed of an incident more than once (25.41 and 4 per cent respectively). The evidence from the civil court cases goes further than the criminal court cases in revealing the cyclical nature of this strategy. Civil cases reveal incidents that involved police attendance but resulted in no formal charges. Not only does this give us a better sense of the full range of outcomes that could follow the police being made aware of an incident of marital cruelty, but it also shows how a victim's strategy for police involvement could change in different circumstances. For some victims,

prosecution was always the preferred route, but in other cases prosecution only occurred after multiple visits from the police that did not result in criminal charges being brought. Although the criminal justice system on the whole only provided a short-term solution to marital cruelty, there were four separation cases where this was not the case. Four pursuers made use of the independence that their husband's imprisonment gave them to launch civil cases. This short-term criminal prosecution gave them the opportunity to seek a longer-term civil solution.

Chapter 10 Conclusion

This thesis has analysed marital cruelty and its aftermath in Glasgow between 1840 and 1901. The focus has straddled an analysis of the long-term solutions sought, an examination of the broad range of unreasonable behaviours reported, and a study of the coping mechanisms exposed. This thesis has also taken steps to uncover the lengthy history of civil solutions to marital breakdown in Scotland. While the data analysed here only represents a fraction of cruel marriages – because so many never reached the courts – this thesis has been based on a large, comprehensive dataset, which has enabled the discovery of numerous detailed and provable findings for the first time. It has demonstrated that husbands and wives in Victorian Glasgow recognised a broad range of behaviours as being unreasonable in marriage – marital cruelty was understood to be more than cuts and bruises from at least as early as the nineteenth century. This is not to say that physical violence was not a prevalent feature of most cruel marriages. Rather, the diversity of unreasonable behaviours displayed in this thesis proves that the prior historiographical focus on physical cruelty in marriage distorts historic experiences and perceptions. Further, this thesis has also shown that across the Victorian period, victims could draw on a range of coping mechanisms when faced with marital cruelty. The help provided by others, from neighbours and family, through to professionals – doctors, clergy, lawyers and most notably the police – often enabled marriages to be sustained despite the actions of cruel spouses. Notably, while other historians have posited the importance of clergymen and doctors in other time periods and locales, this thesis has shown that Glaswegian families, neighbours, and servants across the class spectrum most often relied on the police to intervene in incidents of marital cruelty.

The originality of this thesis has been based primarily on the sources and methodology used. By exploring experiences in the Greater Glasgow region, this thesis has expanded the geographical spread of research into historic marital cruelty in Britain, beyond a focus on England and Wales. In particular, studying marital breakdown in Scotland has allowed this thesis to engage with new civil records of marital cruelty, which are unavailable in England and Wales for the same period and length of time. Alongside Court of Session (hereafter, CoS) files pertaining to actions for divorce and separation, newspaper reports of Police, Justice of the Peace, and Sheriff court proceedings were used to investigate attitudes towards marital cruelty in Victorian Glasgow.

Beyond the details of behaviours and strategies that these sources exposed – which would not otherwise be known about – these records are historically significant for three other reasons. First, the Scottish history of civil marital breakdown differs considerably from the rest of Britain. Scots have had access to civil restitution for unreasonable marital behaviours for almost 300 years more than their English and Welsh neighbours (1564 versus 1857). Second, civil divorce and separation were available on an equal basis to men and women. Third, Scottish husbands and wives who wanted to get a divorce had to prove either adultery *or* desertion, and those who wanted a separation had to prove either cruelty *or* adultery. In England and Wales, when a wife pursued a divorce, she had to prove compound marital crimes of adultery *and* cruelty, bigamy, or incest. Thus, Scottish wives faced fewer hoops to jump through before securing access to legal solutions for their marital strife. The usefulness of Scottish consistorial cases for the purposes of studying unreasonable marital behaviours within – and beyond – Scotland has also hitherto been unrealised. Furthermore, Scotland’s criminal records of marital cruelty have previously been underutilised by historians, and research has largely focused on sentencing rather than on understanding the nature of behaviours within a marriage.¹

While historians of English marital breakdown have predominantly studied either working-class marital cruelty using criminal court records, or middle- and upper-class marital cruelty using ecclesiastical and later divorce court records, these class-based distinctions were not necessary in this thesis. The majority of the couples involved in divorce and separation cases were from the middle classes. However, in a broad sense, the class profiles of couples who sought civil restitution were more varied in Scotland. As the costs involved were lower and the system of legal aid was more equitable, working-class, middle-class, and upper-class Victorian Scots all used the same legal process when pursuing either a separation or divorce. Thus, in contrast to England and Wales, the study of CoS records has allowed comparisons to be drawn across the class spectrum from the same source base.

10.1 A System of Maltreatment

This thesis has given equal attention to physical, sexual and non-physical incidents that created marital dissatisfaction and cumulatively lead to the marital breakdown. By shifting the focus away from solely physical acts of violence, this study has more fully appreciated the

¹ Annmarie Hughes, ‘The “Non-Criminal” Class: Wife-Beating in Scotland (c. 1800-1949)’, *Crime, Histoire & Sociétés* 14, no. 2 (1 December 2010).

interrelationship between different forms of unreasonable behaviour – be it verbal abuse, economic control, or physical or sexual violence. When unreasonable behaviour is properly considered in as broad as possible a context, it becomes clear that it was not just physical abuse that led to a victim's decision to leave, or brought a couple's situation to the attention of neighbours, the police, or the courts. Importantly, the majority of unreasonable marital behaviour examined in this thesis were not criminalised and did not meet the civil legal threshold for cruelty either. Instead, they were actions that victims themselves deemed *unreasonable* in marriage.

Physical violence was prevalent in the marriages that came before the criminal courts and in marriages that led to one party seeking a separation. In Glasgow, the perpetration of physical violence was not only associated with the working classes. Hammerton has acknowledged that there was “some awareness of the incidence of violence among the middle class” by the end of the nineteenth century, but this thesis has shown that there was clearly an earlier awareness of this in Glasgow.² Victims across the class spectrum reported suffering physical violence from the at least the 1840s. These observations – that cruel spouses regularly assaulted their husbands or wives – are not unique to the Scottish context and have been made by historians of other time periods and locales. What is original though, is that this thesis has shown these prevalent physical abuses did not exist in a vacuum. Instead, physical cruelty was just one part of a system of maltreatment that usually contained a range of other behaviours that have often been side-lined or ignored altogether.

Significantly, the rigorous quantification of behaviours reported to the civil and criminal courts – the key historiographical innovation of this thesis – has allowed a much fuller range of emotional, psychological, economic, and verbal cruelties to be systematically examined. Thus, this thesis has shown conclusively that a plethora of unreasonable non-physical behaviours in marriage also caused considerable distress to victims. Although these particular behaviours did not always meet the threshold of ‘cruelty’ required for a legal separation, and were not included in the acts of adultery or desertion that warranted a divorce, they were nevertheless widely reported by victims because they contributed to the system of maltreatment. Beyond the legal definition of adultery – extra-marital sex – victims complained that their spouses flirted with other partners, kept late hours, or did not show them the affection that they expected. Victorian Glaswegians expected marriage to be an emotional union, not a

² A. J. Hammerton, *Cruelty and Companionship: Conflict in Nineteenth-Century Married Life* (London, 1995), 73.

platonic financial one. From conception onwards, this thesis has also demonstrated that children were exposed to the same cruelty as their parents, be it physical or non-physical, and that attacks on the children also constituted cruelty towards the victim. Children were often used as pawns by the abusive parent. The threat of denying access to children and the threat of child abuse was used to control spouses in some cases, while in others the children were groomed to directly inflict abuse upon their parent.

Economic neglect was another important factor in cruel marriages, and it could be complemented by additional forms of economic abuse. Desertion, both for the legal period of four years and for smaller lengths of time, caused husbands and wives to suffer economic hardships. Without a husband's income, a wife's ability to maintain the home was restricted, but husbands could also complain of forms of economic neglect. While women complained that their husbands failed to provide sufficient income to allow the family to survive, men took issue if their wives failed to provide services related to child rearing and household management. Regardless of how you supported the family, alcoholism was also likely to reduce your ability to complete these tasks and was in-and-of-itself a financial drain. Thus, alcoholism could be an economic complaint made against both sexes, and was complemented by the associated psychological threats it often induced. The destruction of property was another behaviour that bridged two categories of cruelty: economic and psychological. Not only did property destruction have economic repercussions for victims, but it was reported that the perpetrator redirected their violence against objects as a substitute for the physical assault of the victim.

Whether the language was degrading or aggressive, verbal abuse often accompanied other forms of unreasonable marital behaviour. The lack of reports of verbal aggression accompanying other forms of cruelty in divorce cases suggests that verbal aggression acted to compound whatever other form of cruelty was being complained of. Thus, verbal aggression was seen as a lesser form of marital cruelty when compared directly to physically threatening behaviours, and subsequently it has been obscured from the record. However, the persistence of reports of verbal aggression conducted on its own – and the comprehensive descriptions of verbal aggression that accompanied other unreasonable behaviours in the separations database – implies that, while not as serious as other behaviours, it was still unreasonable.

Considered as a whole, it was the inter-related experience of both physical and non-physical unreasonable behaviours that contributed to victims' sense that their marriages were no longer tenable. In other words, physical cruelty was just one part of a system of maltreatment that usually contained a range of other behaviours that have often been side-lined or ignored

altogether. This thesis has shown that it was necessary to prove a number of unreasonable behaviours – from a range of behaviour categories – in order to describe a marriage as ‘cruel’. Certainly, separation cases on average included reports of 17 separate incidents of unreasonable marital behaviour, which constituted on average 22 behaviours. Almost every separation case included at least one report of both emotional and physical abuses. Furthermore, almost 90 per cent of separations included an accusation of psychological abuse, around three quarters alleged economic abuse, and three in five separations contained reports of verbal abuse. It was this combination of unreasonable behaviours, repeated over time, that created a ‘system of maltreatment’. Many marriages involved an amicable period before cruelty commenced, and one of the most common triggers for cruelty in marriage in Victorian Greater Glasgow was alcoholism. However, early instances of cruelty alone did not move victims to seek intervention from the CoS. Only after a cruel spouse had displayed a pattern of unreasonable behaviour for a prolonged period of time, and various coping mechanisms had been exhausted, did victims consider their marriage unbearable and irreparable. It was only at this point that victims sought long-term solutions in the form of a separation or divorce.

10.2 Patriarchy as a Lived System

Considered as a whole, this thesis offers important new insights into gender, sexual, and economic relations in Victorian marriage. As well as demonstrating the full range of unreasonable behaviours, the cases considered often give unique insights into personal relationships and domestic, everyday Glaswegian life. These range from as the health implications of oppressive and promiscuous Scottish spouses, to the materiality of marital cruelty that encompassed gutta-percha bludgeons and the nursery’s whisky supply. Katie Barclay’s work on patriarchal power in elite Scottish marriages between the seventeenth and nineteenth centuries has shown that, “patriarchy [was] a lived system”.³ Similarly, A. J. Hammerton has argued that patriarchal power structures continued within the system of companionate marriage throughout the nineteenth century, as only *excessive* male abuses were curtailed.⁴ The findings of this thesis would agree: even as laws changed to improve the position of women, a husband’s right to control his household remained sacrosanct. Given the continued dominance of men within households, the vast majority of cruel and unreasonable

³ Katie Barclay, *Love, Intimacy and Power: Marriage and Patriarchy in Scotland, 1650 - 1850*, Gender in History (Manchester, 2014), 204.

⁴ Hammerton, *Cruelty and Companionship*, 2.

behaviours went unrecorded and unchallenged, in part because they failed to meet the threshold for criminal or civil proceedings, and in part because they remained within accepted social norms (even if considered unreasonable by the victim themselves).

In this context, the act of counting marital cruelty in-and-of-itself is largely futile in the face of the ‘dark figure’ – the inescapable pervasiveness of unreported incidences. Despite – or, perhaps, because of – this, it is nevertheless worth considering, for a moment, what each of the three datasets reveal about the prevalence of unreasonable marital behaviour in marriages, and what this can tell us about marital relationships that were not captured by legal and print sources. Going back to the primary archival material, separation cases were the richest of the three sets of sources used in this thesis. Furthermore, as these cases were predominantly based on evidence of marital cruelty, these files were expected to divulge the most evidence of attitudes towards unreasonable behaviour in marriage. The evidence contained in these records shows that unreasonable marital behaviour was most often experienced in a variety of forms simultaneously – no individual cruelty was suffered in a vacuum, and it was this convergence of unreasonable behaviours that led victims in extreme cases to seek the long-term solution offered by a legal separation. Notably, however, across the whole of the Victorian period, there were only 122 separation cases brought by couples from the Greater Glasgow region. Separation cases that appeared before the CoS only involved the most extreme examples of unreasonable behaviour in marriage. Some of the behaviours that featured in these cases would undoubtedly have also been present in other marriages, but those stories were never recorded for posterity: perhaps the victim was willing to endure the behaviour, perhaps coping mechanisms made their suffering manageable, perhaps they were able to negotiate a workable, extra-judicial separation, or perhaps the behaviours they experienced fell short of the legal requirements for civil intervention.

Divorce cases, similarly, could only be granted or denied on the basis of two issues alone: adultery or desertion for upwards of four years. Despite this, pursuers and defenders in 50 per cent of marriages that featured adultery or desertion also took the time to cite other behaviours that they had experienced during their marriages that they also deemed unreasonable. It is here, where reports of unreasonable marital behaviour beyond adultery and desertion were not legally required, that we gain some of the most compelling insights into the nature of unreasonable marital behaviour that would have otherwise escaped the eyes of the courts. Like separation cases, the other forms of unreasonable behaviour that were reported in divorce cases were often non-physical in nature. Indeed, only a little over half of the sampled divorces featured any physical cruelty at all. This plethora of unreasonable marital behaviours

– many of which were not criminal, and would not alone have met the criteria for a legal separation – only came to light because more serious marital crimes were committed that warranted the dissolution of the marriage. By extension, as the low uptake of legal separations suggests, this is further evidence that many unreasonable marital behaviours must have gone unreported because they failed to meet the high legal threshold necessary for criminal or civil proceedings to begin.

Finally, the surviving newspaper reports of criminal proceedings reveal a fraction of the predominantly physical cruelties that were present in working-class marriages. Deliberately or otherwise, the criminal proceedings of wealthier individuals were shielded from public view and never appeared in the sample of almost 500 *Glasgow Herald* cases included in this research. As only physical violence (though not those forms with a sexual component) and drunk and disorderly behaviours were criminal, these cases could only ever offer a glimpse at the full picture of unreasonable behaviour in marriage. However, as a cheap and accessible form of justice, the prevalence of criminal proceedings speaks volumes. As well as being publicly funded, the subject matter of criminal cases was among the least subjective: certainly, the appropriateness of the assault could be up for debate, but more often than not there was physical evidence of the abuse – cuts, bruises, or missing teeth – that could not be easily disputed. By acknowledging the limitations of this data – the narrow focus on working-class physical abuses – alongside the benefits of it – the accessibility and clear-cut nature of cases – these examples speak to the pervasive nature of physical abuse in marriage across Victorian Greater Glasgow. Nevertheless, when combined with the evidence from the separation and divorce cases, which proves that physical abuse rarely existed in isolation to other forms of unreasonable behaviour, it is clear that unreasonable behaviour in physical and non-physical forms was common in Victorian marriages.

So, considered together, these three sources suggest unreasonable marital behaviour – in all its forms – was widespread in Victorian Greater Glasgow, but for the most part remains unreachable to historians. This observation is certainly not unique to Scotland or the Victorian period. However, it does have wider implications. The fact that so few examples of unreasonable marital behaviour were recorded for posterity speaks, primarily, to the pervasive nature of patriarchal power in marriage. For the most part, unequal gender relations continued to favour male power and control in marriage. There were certainly limits to this power. When those limits were breached, criminal or civil proceedings could occur (creating records that survive to this day). Nonetheless, more commonly, unreasonable marital behaviours went unreported and unchallenged. This is not because husbands and wives did not consider the

behaviours that they experienced unreasonable, but often because the legal system did not recognise those behaviours as unreasonable enough. For society as a whole, marriage remained *the* central social, sexual, and economic union in the Victorian period. The ideal of marriage meant that women and children who could not independently command a high enough wage to sustain themselves could be supported by male breadwinners. To bring this crucial union to an end – temporarily through a separation, or permanently through a divorce – required considerable justification. Husbands and wives were usually willing to forgive certain behaviours, to an extent, for the sake of the union, but in an uncountable number of instances, the law fell short of victims' needs. There was a significant gap between the behaviours ordinary husbands and wives considered unreasonable in marriage, and the types of behaviours that warranted civil and criminal legal interventions in marriage. The 'lived system' of patriarchy continued to enable the dominance of male power across Victorian Scotland. The numbers of divorce and separation cases in Glasgow increased significantly from the 1880s onwards, but remained insignificant compared to the population as a whole. While this thesis has focused on the voices of those who spoke out against the cruelties they experienced within the patriarchal society in which they lived, we should also be attentive to the silences in the archival record.

10.3 Looking forward

This research has focused on the Greater Glasgow region during the Victorian period, but a larger digital humanities project could utilise the unique aspects of the Scottish source base to undertake this work in relation to the whole of Scotland over a period spanning multiple centuries. There is also scope for a number of smaller research projects. In particular, research is desperately required into life after divorce or separation. How did divorcees fare after a CoS action? Were they socially accepted within wider society, or did they become relative outcasts? How were experiences and memories of cruelty discussed or, more likely, repressed? Did couples who were legally separated resume cohabitation later in life? Additionally, given the low uptake of these CoS solutions, further research could be undertaken into the actions raised in Small Debt Courts for aliment, to give a more realistic and comprehensive picture of voluntary marital breakdown in Scotland.

Divorce and separation were among the least commonly accessed solutions for victims of marital cruelty. For the most part, unreasonable marital behaviour was widely accepted, indicative of a wider acceptance of patriarchy in Victorian Scotland more generally. However,

the records that these cases left behind expose a wealth of information about behaviours and strategies that would have been experienced by victims of marital cruelty. Studying these records alongside the records of the much more popularly used criminal courts has painted a much more diverse and textured picture of marital cruelty, and broader social life, in Victorian Glasgow. Marital cruelty could take the form of emotional, psychological, verbal, economic, and physical abuses. Significantly, these cruel behaviours were inter-related, and victims predominantly only sought help when the combination of behaviours became unbearable. Victims, nevertheless, managed their situation through a mixture of formal and informal methods right up to the termination of the marriage, when their actions led to the creation of the legal records on which this thesis is based.

Appendices

Appendix A

Selected photos from the 1883 separation case of Isabella Barr against John Bell (National Records of Scotland, Edinburgh, CS243/560).

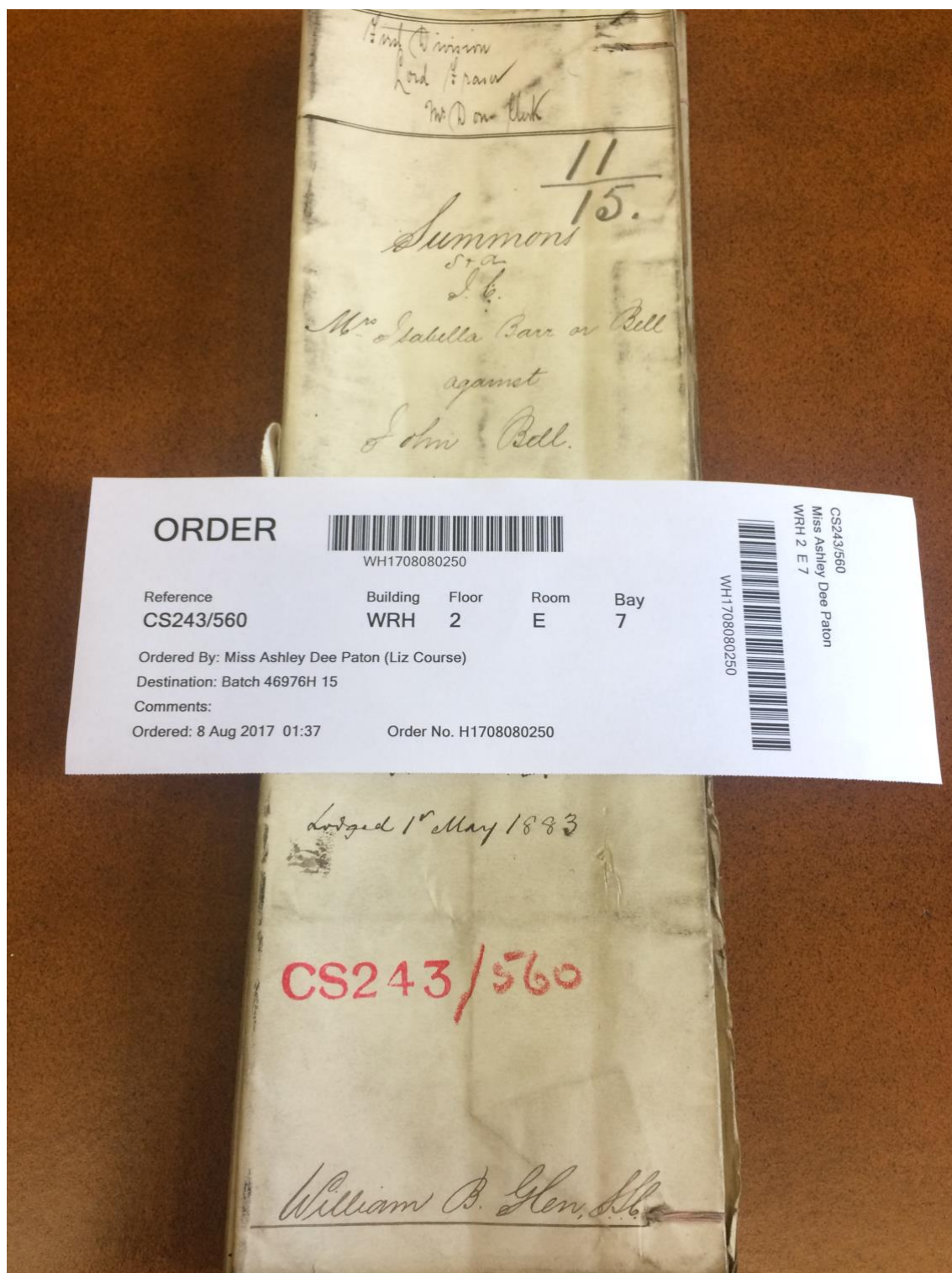


Figure A.1 Files related to case CS243/560 with call slip

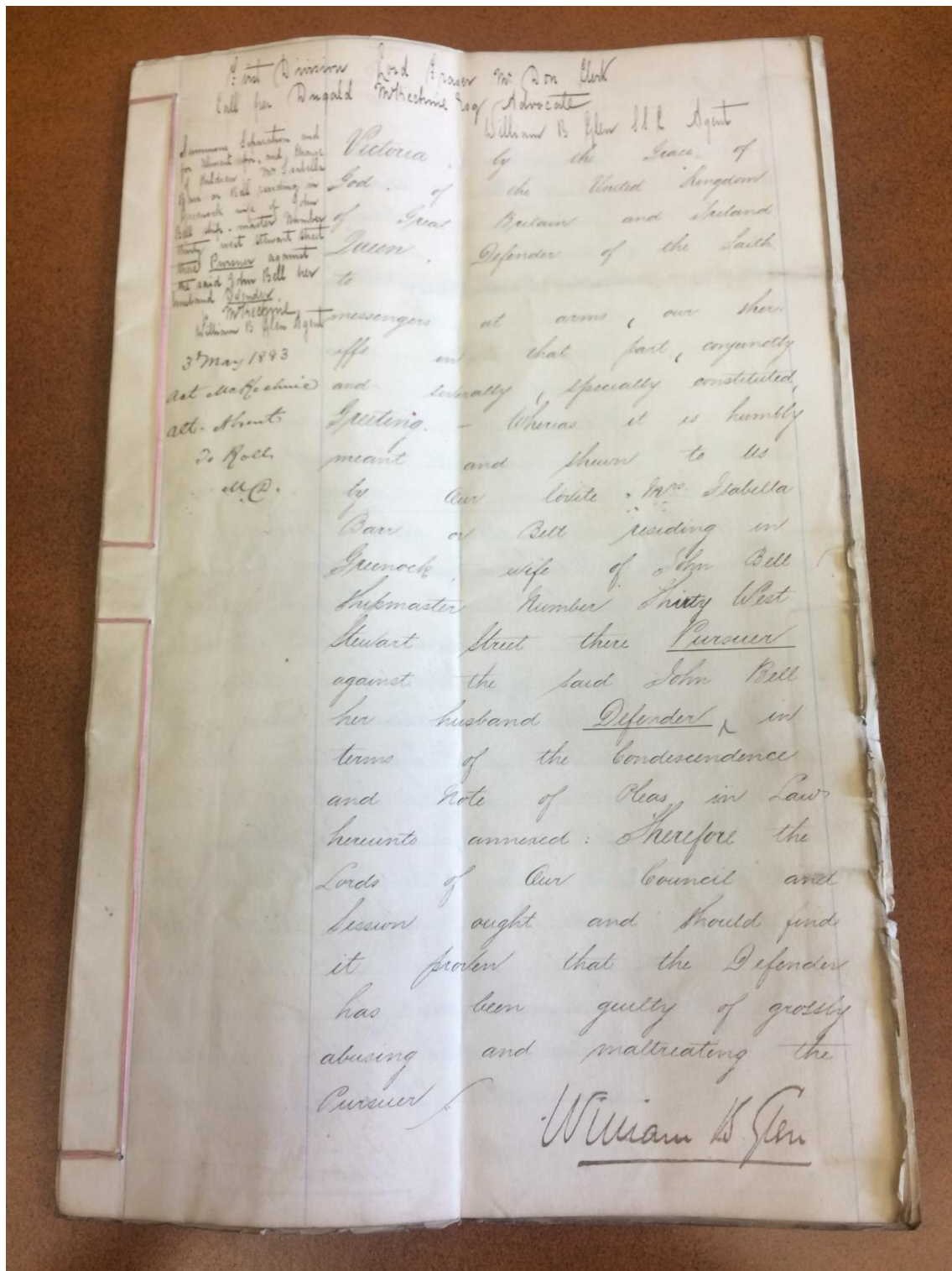


Figure A.2 First page of the Summons document

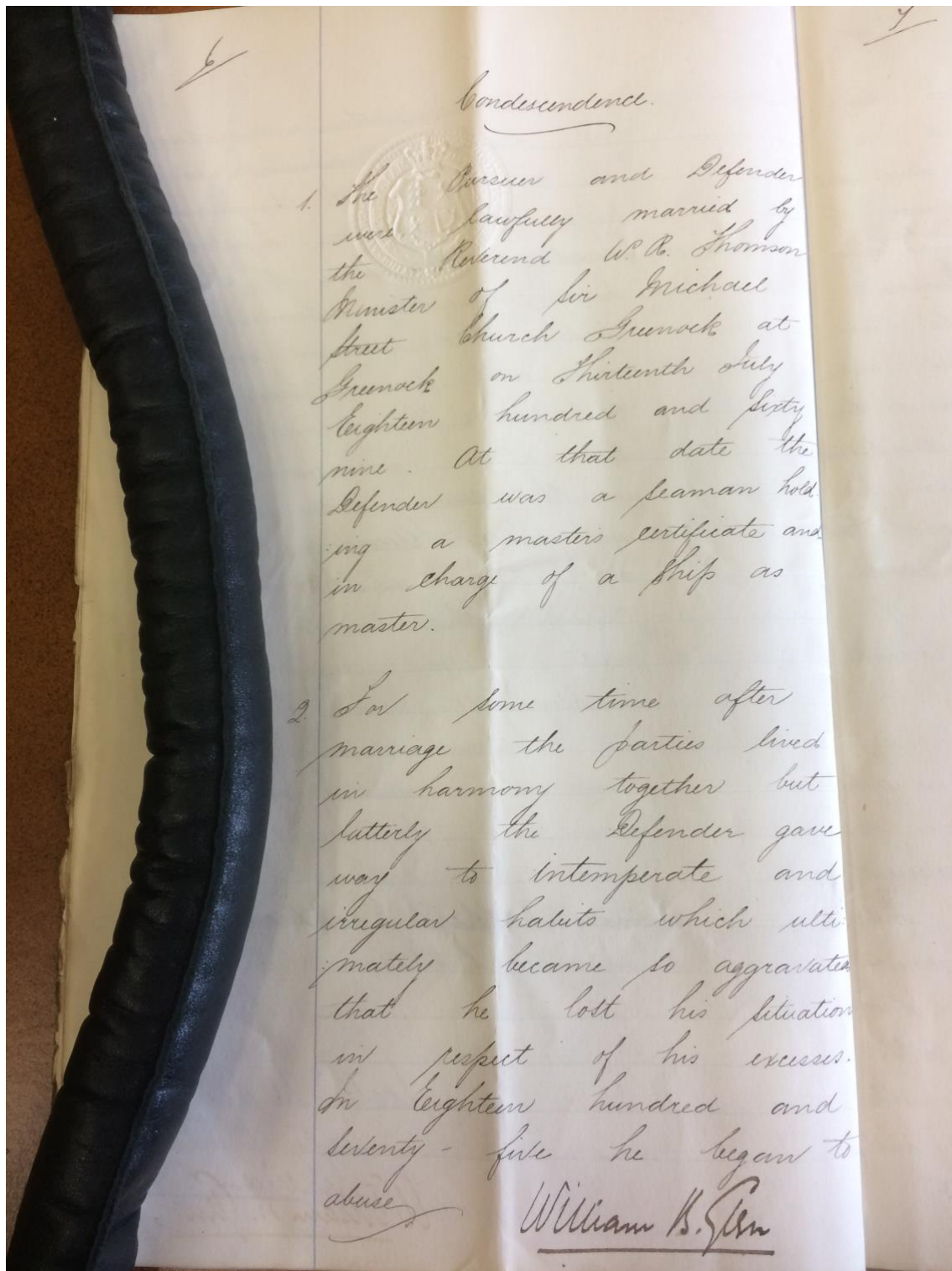


Figure A.3 First page of the Condescendence section of the Summons document

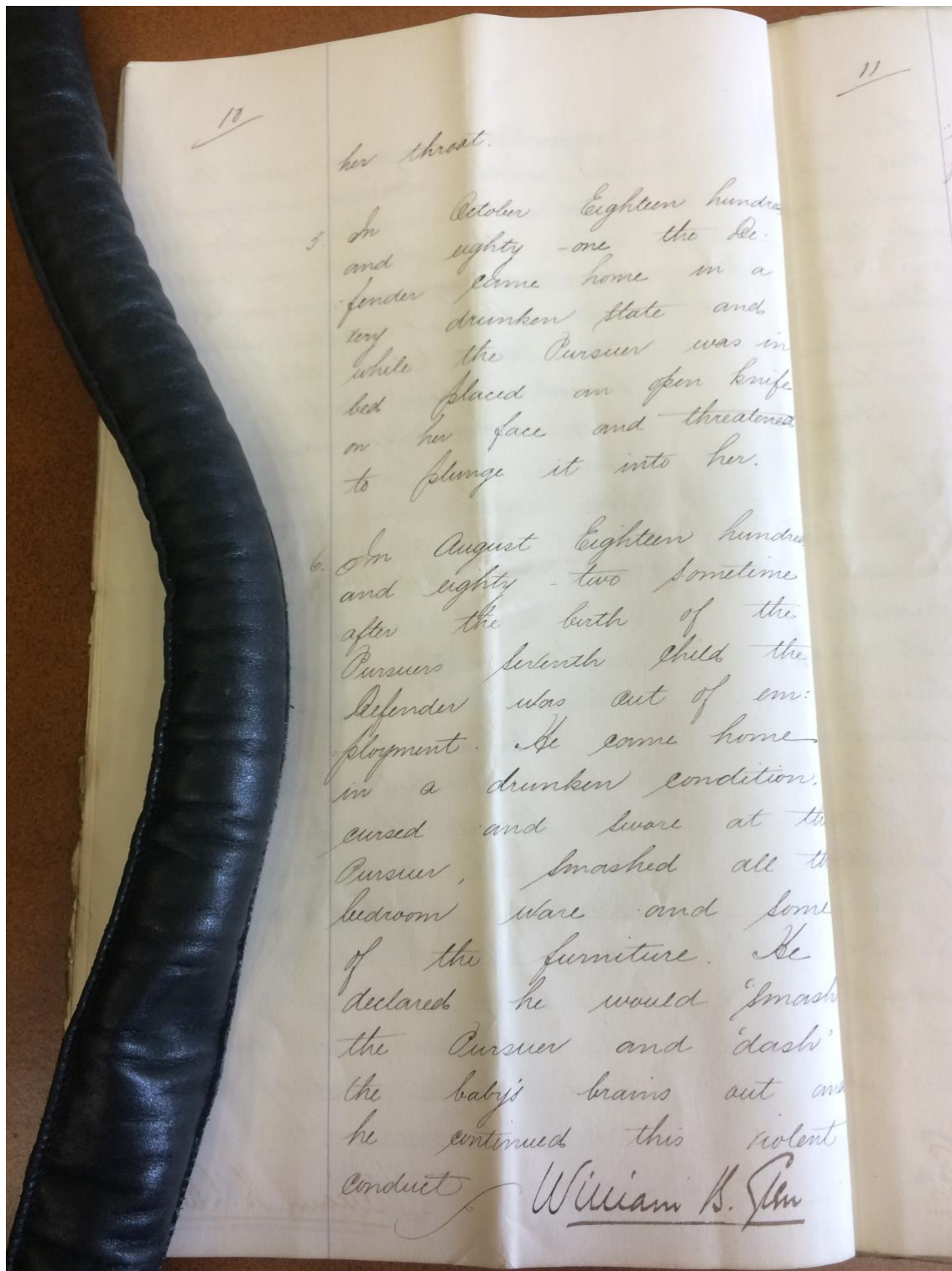


Figure A.4 Example page of the Condescence section of the Summons document

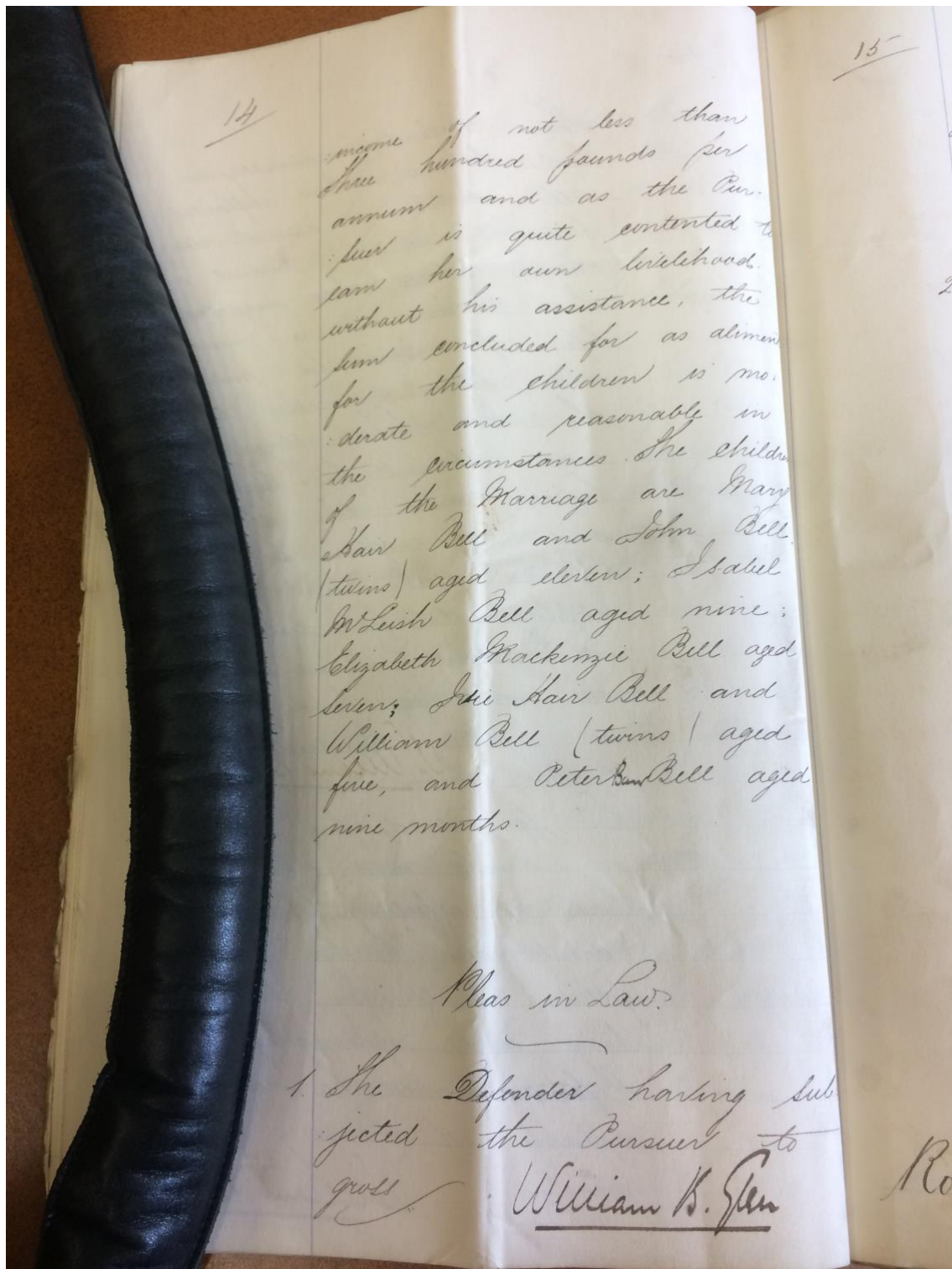


Figure A.5 First page of the Pleas in Law section of the Summons document

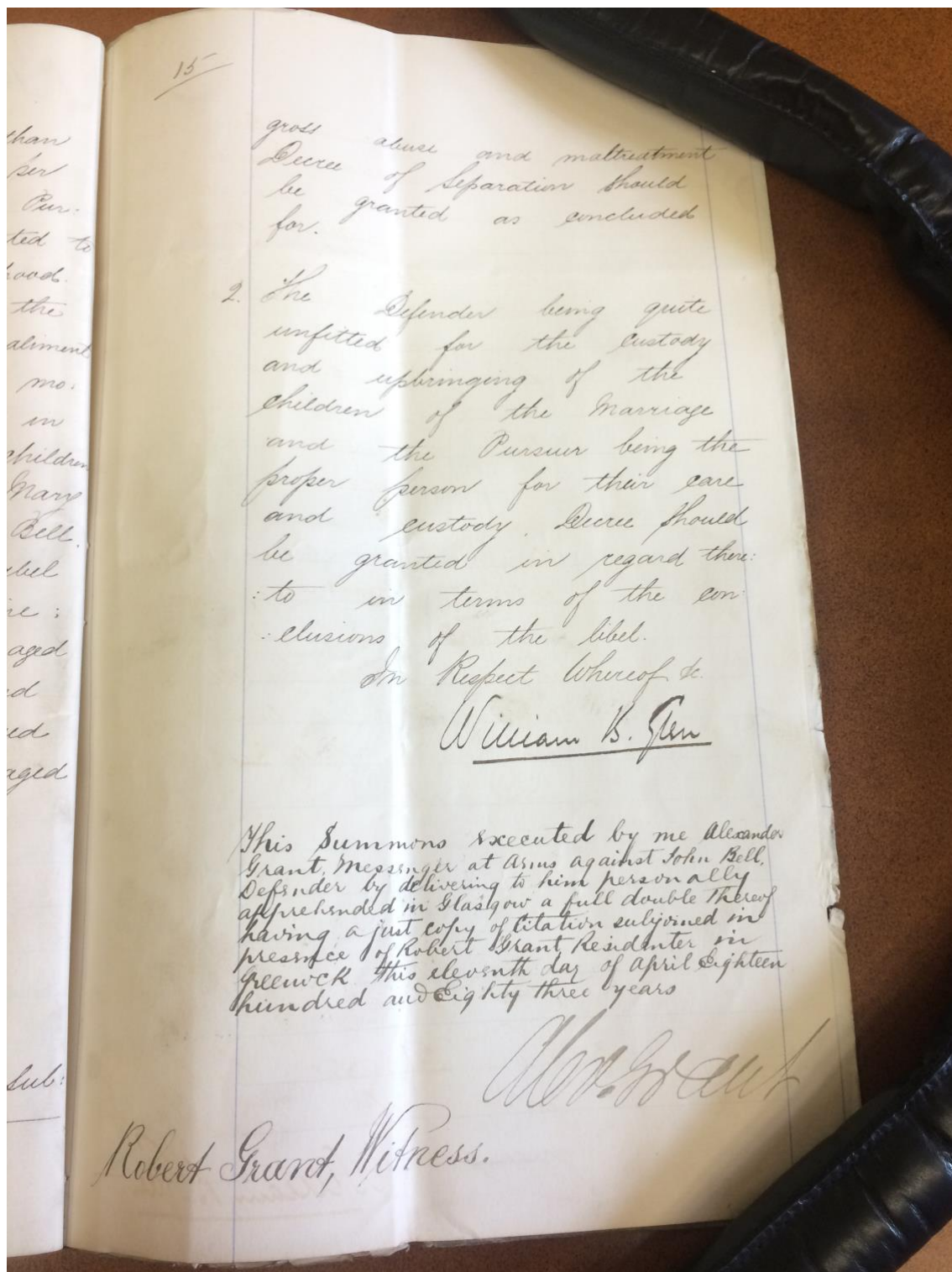


Figure A.6 Second page of the Pleas in Law section of the Summons document

Pursuer's Proof

Isabella Barr or Bell forty years of age, Examined, Depones: On the thirteenth July eighteen hundred and sixty nine I was married to the Defender John Bell in Greenock by the Reverend W. R. Thomson. Defender was then a master mariner. Seven children have been born of the marriage. Their names are Mary Hair Bell eleven years of age John Bell eleven years of age Isabella McLeish Bell nine years of age Elizabeth Mackenzie Bell seven years of age Lvie Hair Bell five years of age William Bell five years of age and Peter Barr Bell ~~five years of age~~ ^{nine months}. We lived together in Greenock from the time of our marriage till March last. At first he behaved

Figure A.7 First page of the Pursuer's Proof section of the Proofs document

Appendix B

All Behaviour Types by Behaviour Category

Economic Behaviours	
	Aliment Evasion
	Detrimental to Business
	Economic Neglect
	Economic Negligence
	Expropriation
	Extravagance
	Gambling
	Lazy
	Misrepresentation
	Pawning
	Prison Time
	Refused Money
	Removed Furniture
	Shop Credit
	Threat Detrimental to Business
	Unemployment
	Withholding Servant

Economic-Emotional	
	Abandonment
	Absent
	Absent with Child
	Banned from House
	Defender Left
	Desertion
	Desertion with Child
	Desertion with Children

	Extortion
	Refusal to Cohabit
	Refused Reconciliation
	Termination of House

Economic-Psychological	
	Property Destruction

Emotional	
	Admitted Adultery
	Admitted Semi/Permanent Ban from House
	Adultery
	Alleged Adultery
	Attempt Isolation
	Attempt Pursuer Left
	Attempt Put/Kept Out House
	Attempted Adultery
	Attempted Reconciliation
	Attempted Reform
	Attempted Suicide
	Bad Character
	Broken Promises
	Child Abuse
	Child Neglect
	Children
	Clarty
	Class

Cover Up
Degrading Behaviour
Degrading Family
Emotional Abuse
Flirtation
Ignored
Intermittent Cohabitation
Isolation
Jealousy
Kidnapping
Late Hours
Lies
Neglect
Non-Cohabitation
Ordered to Leave
Position
Promise
Pursuer Left
Put Family Out
Put/Kept Out House
Put/Kept Out Room
Refusal to Consummate
Removed Keys
Semi/Permanent Ban from House
Separate Beds
Spitefulness
Stepchildren
Suicide Threat
Taunting
Threat Isolation
Threat Kidnapping
Threat Position

Threat Pursuer Left
Threat Put/Kept Out House
Threat Semi/Permanent Ban from House
Unaffectionate
Unfit Father
Unfit Mother
Unfit Wife
Unwelcome

Emotional-Legal
Unfounded Legal Proceedings

Emotional-Verbal
Degrading Language
Disrespectful
Insult
Silent Treatment

Ill-Treatment

Legal
Attempt Extra-Judicial Separation
Attempted Extra-Judicial Agreement
Attempted Judicial Action
Contravention of Extra-Judicial Agreement
Extra-Judicial Action
Extra-Judicial Admission
Extra-Judicial Agreement
Extra-Judicial Separation
Judicial Action

Judicial Action Raised
Judicial Separation
Legal Intervention
Mutual Separation
Threat Legal Proceedings

Physical
Abuse with Body
Abuse with Object
Assault
Attempt with Body
Attempt with Object
Attempted Assault
Attempted Murder
Attempted Poisoning

Physical-Emotional
Abuse with Object Family
Family Abuse
Spitting

Psychological
Abuse of Others
Admitted Assault
Alcohol
Asylum
Attempt Abuse of Others
Attempt Assault
Attempt Property Destruction
Attempted Asylum
Bad Company
Boisterous

Coercion
Confinement
Dangerous Behaviour
Detrimental to Health
Disobedience
Dispossession
Domination
Forced Hosting
Imprisonment
Institutionalised
Intimidation
Provocation
Psychological Abuse
Quarrelsome
Stalking
Temper
Threat
Threat Abuse with Body
Threat Assault
Threat Confinement
Threat Desertion
Threat Family Life
Threat Property Destruction
Threat to Employee Life
Threat to Life
Threat with Body
Threat with Object

Psychological-Emotional
Kills Pet
Threat Children
Threat Family Abuse

	Threat to Family Life
--	-----------------------

	Psychological-Physical
	Refusal to Seek A Doctor
	Starvation

	Psychological-Verbal
	Causing A Disturbance

	Psychological-Verbal-Emotional
	Servant

	Sexual
	Attempted Rape (Other)

	Indecency
	Sexual Abuse
	VD
	VD Children

	Verbal
	Curse
	Gossip
	Nagging
	Name Calling
	Slander
	Swear
	Swearing
	Verbal Aggression

Appendix C

Distribution of Cases by Decade per Database

Decade	SepDB		DivDB		CCDB	
	No. of Cases	<i>Percentage</i>	No. of Cases	<i>Percentage</i>	No. of Cases	<i>Percentage</i>
1840s	4	<i>3.27</i>	0	<i>0</i>	6	<i>1.23</i>
1850s	6	<i>4.92</i>	0	<i>0</i>	31	<i>6.38</i>
1860s	5	<i>4.10</i>	2	<i>4.00</i>	75	<i>15.43</i>
1870s	15	<i>12.30</i>	7	<i>14.00</i>	28	<i>5.76</i>
1880s	41	<i>33.61</i>	11	<i>22.00</i>	55	<i>11.32</i>
1890s	44	<i>36.07</i>	29	<i>58.00</i>	267	<i>54.94</i>
1900s	7	<i>5.74</i>	1	<i>2.00</i>	24	<i>4.94</i>
Total	122		50		486	

Appendix D

Distribution of Cases by Husband's Occupation Category per Database

Occupation Category	SepDB		DivDB		CCDB	
	No. of Cases	<i>Percentage</i>	No. of Cases	<i>Percentage</i>	No. of Cases	<i>Percentage</i>
Independent Means	7	5.74	0	0.00	0	0.00
Professional Occupation	7	5.74	2	4.00	0	0.00
Skilled Occupation	51	41.80	14	28.00	4	0.82
Armed Forces	0	0.00	0	0.00	1	0.21
Skilled Trade	33	27.05	15	30.00	26	5.5
Skilled Labour	14	11.48	14	28.00	50	10.29
Unskilled Labour	10	8.20	4	8.00	179	36.83
Unknown	0	0.00	1	2.00	226	46.5
Total	122		50		486	

Appendix E

Description of behaviours included in behaviour type 'children'

Description	SepDB	DivDB	CCDB
Preventing Contact with Child(ren)	6	0	0
Attempted to prevent contact	1	0	0
Prevented Contact	5	0	0
Threatened to Prevent Contact	1	0	0
Damaging to Health of Child(ren)	14	3	18
Threat physical assault of child(ren)	1	1	0
Threat murder of child(ren)	2	0	1
Prevented medical care for child(ren)	1	0	0
Physical Abuse of Child(ren)	11	3	17
Attempted Physical Abuse of Child(ren)	2	0	0
Frightened Child(ren) without physical abuse	1	0	0
Unfit Parenting	8	1	0
Did not provide economically for child(ren)	2	0	0
Did not attend to child(ren) sufficiently	2	0	0
Actively took from child(ren)	1	0	0
Did not like child(ren) playing in the house	1	0	0
Overbearing attitude towards the child(ren)	1	1	0
Bad Influence on the child(ren)	1	0	0

Verbally abused child(ren)	2	0	0
Using/Having Child(ren) Abuse their Parent	7	0	0
Encouraged the Child(ren) to defy their other parent	1	0	0
Told child(ren) lies about their other parent	1	0	0
Kept their illegitimate child around the house	1	0	0
Turned child(ren) against the other parent	1	0	0
Child abuses victim-parent physically with abusive- parent's knowledge and implied consent	3	0	0
Total No. of Cases that Reported Behaviour Type 'Children'	26	3	18

(NB: 'prevented contact' could be either deliberate or a consequence of other unreasonable behaviour that caused grown-up children to avoid the home – see for example, National Records of Scotland, Edinburgh, CS243/1452, Summons).

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